

AIMing for the Dam in 1971:

The Indian Occupation of the Winter Dam

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Chapter 1: Introduction

Since the landing of Columbus in 1492, Native Americans have fought an ongoing battle against Europeans who invaded and took their land, spread disease, and killed their families and tribal members. Throughout that time, the United States government made and later broke many treaties with tribes throughout the country. The government also imposed policies upon Native Americans that changed through time, but usually resulted in negative situations for the Indians. In the latter part of the 1960s, several Native American protest groups and movements became outspoken and very active in seeking to reassert their rights. The takeover and occupation of the Winter Dam in Sawyer County Wisconsin, in August 1971 by the Lac Court Oreilles (LCO) band of Ojibwe and the American Indian Movement (AIM) was one result of that increased activism.

American Indians faced significant obstacles and oppression throughout most of the twentieth century in the United States. That was nothing new to the Native American tribes; it was simply a continuation of the past. The federal government policy toward the Native Americans, although it continued to oppress the tribes, continued to change throughout the century. The first major impact on twentieth century relations between the federal government and the Native Americans occurred in 1890, at Wounded Knee, South Dakota. In December of that year, members of the United States Army massacred a reported 300-350 Lakota men, women, and children, the majority of who had already surrendered their weapons. That event was considered the end of the Indian wars and the

beginning of changing policy toward Indian relations by the government that moved into the twentieth century.¹

After the incident at Wounded Knee, the U.S. government policy toward Indians was one of assimilation. In 1887, the Dawes Act, also known as the General Allotment Act, was passed by Congress. The purpose of the Dawes Act was to break down tribal identity by dividing reservation land and providing land allotments to individual Indian families. That was the first act of the assimilation policy. As part of that policy, many Indian youth were forcefully sent to boarding schools run by the Bureau of Indian Affairs (BIA), which were established beginning in the late nineteenth century. At the schools, the young Indians were not allowed to speak their native tongues or practice any of their native customs or religious practices. According to historian Peter Iverson, “Boarding schools comprised an ongoing onslaught against Native families and Native belief systems.”² The assimilation policy resulted in large amounts of Indian land lost to white men, through cessions and unfair sales.

In 1928, the Merriam Report, a nationwide survey of Indian reservations commissioned by the U.S. Interior Department, “revealed extreme poverty, poor health, and cultural despair.”³ The report also called for Indians to be given more respect in leading their lives. The Merriam Report, in large part, resulted in new Indian legislation in the 1930s as part of the New Deal reforms. The major act was the 1934 Indian Reorganization Act (IRA), also known as the Indian New Deal. The Act reorganized

¹ Joane Nagel, *American Indian Ethnic Renewal: Red Power and the Resurgence of Identity and Culture* (New York: Oxford University Press, 1996), 115-118.

² Peter Iverson, “*We Are Still Here:*” *American Indians in the Twentieth Century* (Wheeling, IL: Harlan Davidson, 1998), 23.

³ Patty Loew, *Indian Nations of Wisconsin: Histories of Endurance and Renewal* (Madison: Wisconsin Historical Society Press, 2001), 78.

tribal governments, allowed for tribal constitutions and, more importantly for tribes, ended allotment, keeping reservations intact. The Act did, however, give the BIA veto power over tribal decisions. One impact of that act was the beginning of an increase in activism on Indian reservations, as Indians began to seek rights accorded to them in the IRA. The National Congress of American Indians (NCAI) grew indirectly out of that act, and was the first major Indian rights group. World War II also played a large role in the formation of the NCAI, as returning Indian veterans sought more education, training, and other rights.

Federal Indian policy after World War II changed to a termination policy. The federal government sought to end the special status of tribes and assimilate Indians into American society, through the settling of land claims, terminating tribes, and encouraging the movement of Indians to large cities. The government saw termination as a way to end public expenditure and responsibility for Indians, tribes, and reservations. It was also viewed as a way to accomplish the “transfer of the reservations into the hands of sensible Americans who would ‘do something with the land.’”⁴ One Wisconsin tribe, the Menominee, was terminated as a result of that policy. Many Indians saw termination policy as threatening to Indian culture and society. As part of the policy, the BIA offered vocational training, relocation, and housing help to Indians moving to large cities, although the actual amount of help given was disputed. Due in large part to the effects of World War II industrialization and termination policies, the American Indian population went from 13% urban in 1950 to 44.5% urban by 1970. The relocation played a major role in the future organizing of pan tribal activist groups.⁵

⁴ Peter Matthiessen, *In the Spirit of Crazy Horse* (New York: Viking Press, 1980), 28.

⁵ Nagel, 118-121.

Termination policy ended in the late 1960s, due largely to the civil rights movements and President Johnson's Great Society, War on Poverty, and civil rights legislation. As part of Johnson's policies, he advocated for more self-determination for Indians. Those policies also led to an upsurge in Indian rights activism. According to Indian historian Joane Nagel, "The mix of volatile ethnic politics and an explosion of federal resources, many earmarked for minority programs, combined with earlier federal Indian policies that had brought large numbers of tribally diverse, educated, acculturated, and organizationally connected Indians to American cities. The result was the eruption of Red Power."⁶ Although Indians had been comparatively slow to join the sixties activist movement, by 1969, they had exploded onto the scene with the takeover of Alcatraz Island, near San Francisco.

The 1960s in the United States was a tumultuous era, "a time of political and cultural flux in American society; truths were challenged, beliefs were questioned, and the everyday became problematic."⁷ Mark Hamilton Lytle broke the sixties into three specific eras: the "era of consensus" from 1954 to 1963, the "era of escalation," from 1964 to 1968, and "gender and identity politics," from 1969 to 1974. Activist and civil rights groups such as the Student Non-violent Coordinating Committee (SNCC), Students for a Democratic Society (SDS), and the Southern Christian Leadership Conference (SCLC) began to form during the first time period. Lytle's second era, escalation, began in 1964 with the Mississippi Freedom Summer, where both activism and violence grew. That era also saw the rise of the counterculture, Black Nationalism, Black Power, and large mobilizations of Vietnam War protesters. 1968 saw the assassinations of Martin

⁶ Nagel, 121.

⁷ Ibid., 122.

Luther King Jr. and Robert Kennedy, the Vietnamese Tet Offensive, which turned the public relations tide in the country against U.S. involvement in the war, and the Democratic National Convention riots in Chicago.

Lytle's final era witnessed the rise of feminist and gay rights movements, the Hispanic rights movement (Brown Power,) and the Indian Rights Movement (Red Power.)⁸ It was during this era that the American Indian Movement (AIM) was formed and gained prominence. The first major Indian rights event, as noted above, was the takeover of Alcatraz Island in November of 1969. In taking over the island, the Indians of All Tribes asserted that treaty rights allowed them to reclaim unused federal property. Throughout the early seventies, Indian activists, led largely by AIM, engaged in a number of protests and takeovers, including Wounded Knee, the Trail of Broken Treaties, which culminated in the takeover of the BIA building in Washington D.C., and the Winter Dam takeover. According to Lytle, "AIM and the other activists had given the Indians of America new faith in themselves."⁹

The next chapter of this paper will discuss the history of the Lac Court Oreilles tribe, the controversy surrounding the initial dam construction, and the flooding of hundreds of acres of LCO tribal land. We will discuss the village of Pahquahwong and the promises that were made and broken by the power company to the villagers prior to their village being flooded. Also examined in that section are the consequences of the dam construction and the resultant flooding.

The following chapter will discuss the rise of AIM in Indian activism. As we will discover, AIM played a significant role in the takeover of the Winter Dam. Because of

⁸ Mark Hamilton Lytle, *America's Uncivil Wars: The Sixties Era from Elvis to the Fall of Richard Nixon* (New York: Oxford University Press, 2006).

⁹ *Ibid.*, 315.

the large role that AIM played in the takeover, it is important to look at the formation and rise of AIM, and the goals that they set out to accomplish. Books written by founding members of AIM provide significant primary source material for that section.

Following that, we will review the controversy surrounding the license renewal for Northern States Power Company (NSP) and the dam. The LCO tribe was opposed to the renewal of NSP's license to operate the dam and sought to have the government reclaim much of the land on behalf of the tribe. Tribal position papers will be a large focus of this section, as well as a personal interview with Dr. Rick St. Germaine, former LCO tribal chairman and activist.

The dam takeover and the government response will be the focus of the following chapter. The varied responses of local residents, tribal members, and AIM members will also be addressed in that section. Newspaper accounts and the St. Germaine interview provide the major basis for information in this section as we discuss the actual takeover by the tribe and AIM.

Finally, the negotiation and settlement between NSP and the LCO band will be discussed. The negotiations lasted until the final agreement was reached in 1984 and signed in 1985 by then Tribal Chairman St. Germaine in Eau Claire. The interview with him provides valuable source material for that section. Other valuable sources for that section are a tribal position paper written by Tribal attorney Larry Leventhal, and NSP's Environmental Impact Statement.

Chapter 2: Lac Court Oreilles and Pahquahwong

By the early seventeenth century, the Ojibwe tribe had moved from the east coast and settled in the Lake Superior area. Several villages were established throughout the region, but the tribe continued to move about the area according to the seasons. In the fall, winter, and early spring, tribal members located in areas of abundant hunting and trapping. In the spring, maple sap collection took priority, and was then made into maple syrup and sugar. Plant and berry gathering areas were the location of choice in the summer. In the fall, tribal members moved to wild rice collection areas. The tribe also engaged in fishing year round.¹⁰

The LCO band of Ojibwe was given reservation lands, amounting to 70,000 acres, as a result of an 1854 treaty, in the area of what is now Sawyer County. Shortly thereafter, the white man again began to infringe upon the Indians rights. In 1873, a policy of allotment was imposed on the tribe well in advance of the 1887 Dawes Act which implemented allotment nationally. Allotment policy essentially broke up reservations, giving individual Indian families ownership of eighty acres of land. This government program was intended to “civilize” and Americanize the Ojibwe and rid them of their tribal loyalties to ease the assimilation process.¹¹ According to the ideals behind the program, Indians owning their own land would become more independent and less reliant on traditional tribal ways. By the time allotment ended in 1934, via the Indian

¹⁰ Charlie Otto Rasmussen, *Where the River is Wide: Pahquahwong and the Chippewa Flowage* (Odanah, WI: Great Lakes Indian Fish & Wildlife Commission Press, 1998), 12-13.

¹¹ Tim Pfaff, *Paths of the People: The Ojibwe in the Chippewa Valley* (Eau Claire: Chippewa Valley Museum Press, 1993), 40-42.

Reorganization Act, total Ojibwe land, including LCO and three other Ojibwe reservations, had gone from 271,653 acres in 1854 to 160,561 acres through allotment.¹²

The village of Pahquahwong, one of the tribe's first settlements, was first settled in approximately 1745, and became a permanent Ojibwe village on the Chippewa River. Pahquahwong, interpreted by elders variously as "bend in the river," "bay of the river," or "where the river is wide," was a location of abundant natural resources. It later developed into a center for trade with white traders, gaining a second name of Post, short for trading post.¹³ By the early 1900s, Pahquahwong had become "a lively community composed of people of both Ojibwe and European ancestry. They celebrated holidays together and shared revered cultural activities."¹⁴ By World War I, Pahquahwong had 180 residents, living in both frame houses and traditional wigwams.¹⁵ The Ojibwe continued to look to the land for their subsistence however.

During the nineteenth century, logging was the predominant industry in northern Wisconsin. Once the timber forests began to disappear, some saw an economic future in water power in the area to support growing cities down stream, such as Eau Claire and Chippewa Falls. By 1908, an engineering report by the Wisconsin Geological and Natural History Survey and the U.S. Geological Survey pointed to Pahquahwong as an excellent site for a reservoir. The Chippewa and Flambeau Improvement Company (CFIC), a consortium of lumber companies, began to investigate possibilities of constructing a dam at Pahquahwong. In 1914, CFIC sold their recently acquired rights to develop the Pahquahwong dam to the Wisconsin-Minnesota Light & Power Company

¹² Loew, 64-65.

¹³ Rasmussen, 13-14.

¹⁴ Ibid., 16.

¹⁵ Ibid., 19.

(W-ML&P.) W-ML&P sought to build the dam to generate electricity.¹⁶ The construction of the proposed dam would result in the flooding of the village of Pahquahwong.

The LCO expressed their opposition to the proposed dam and flooding of Pahquahwong throughout that time period. The power company had gained the support of surrounding townships, and had purchased land from private landowners, but the company still needed tribal approval for the project to proceed. W-ML&P and its representatives made several offers to the tribe before resorting to threatened legal action against the tribe. Many tribal members expressed their continued opposition, especially the elders and clan heads, who acted as an informal tribal council. Pimosegejig, a Pahquahwong elder, was quoted at a 1912 meeting as saying:

I am speaking for all and we say, no, we don't propose to have this land overflowed. The government told us the land would be ours for ever and for ever. In regard to our people whom we have buried along the banks of the river from the mouth of the Chief River down to the reservation line, we cannot think of having their graves covered by the overflow.¹⁷

Despite the tribe's opposition, in 1920 Congress passed the Federal Water Power Act, the intent of which was to speed development of water power projects on federal land and Indian reservations. The Act allowed for the Federal Power Commission (FPC) to approve such projects without tribal consent and to determine appropriate compensation for tribes whose land was flooded as a result of the projects. W-ML&P then applied to the FPC for a license to build the dam. The FPC approved it and sent it to the Office of Indian Affairs for review.¹⁸ The law required the power companies to hold public meetings, which W-ML&P did. According to Dr. Rick St. Germaine, W-ML&P

¹⁶ Rasmussen, 24-25.

¹⁷ Ibid., 28

¹⁸ Ibid., 31

held the hearings, heard and recorded testimony and objections, “then they went and built the dam.”¹⁹ The tribe by then was resigned to the fact that the dam would be built, no matter what opposition they voiced. “It was always done that way. Why should it be any different this time?”²⁰ Final approval of Federal Power Project Number 108, over the objections of the tribe, was granted on August 21, 1921. W-ML&P was given a fifty year license to operate the dam. Construction of the Winter Dam began in 1922.

As part of the agreement, the FPC ordered W-ML&P to build a new village, including houses, churches, school, and stores. The company was also to move Indian graves out of the flowage area, stock the flowage with fish, replant wild rice beds, and pay a yearly lease fee of \$1,200 to the LCO.²¹

The Winter Dam was completed on March 15, 1923, at which time the gates were closed and flooding began. Within three months, the flood waters were creeping up on Pahquahwong. The residents began to move to the new, partially completed village of New Post. At a July 2, 1923 gathering at New Post, tribal members went to high ground overlooking Pahquahwong. They saw that “floodwaters splashed across the dark rooftops; women sat and wept, while young children played, unable to fully understand what was happening. By the end of summer, the reservoir was full and Pahquahwong was buried under twenty-five feet of water.”²² St. Germaine, as LCO tribal historian, spoke years later to many residents who were there in 1921. He calls the flooding of Pahquahwong a “tragic circumstance involving a community that lost everything. If you ever want to feel pain, just go into these places that lost their homesteads and their homes

¹⁹ Richard St. Germaine, PhD., interview by author, 27 February 2007, Eau Claire, WI., digital recording.

²⁰ Ibid.

²¹ Rasmussen, 33.

²² Ibid., 38.

where they'd been living for hundreds of years.”²³

Although W-ML&P had made agreements with the tribe, they began to attempt to change the settlement within months of completion of the dam. The BIA did not enforce W-ML&P's part of the settlement. The power company did not stock the lake or plant new rice beds. Construction of the village of New Post was not completed by the company. Many graves were not moved before the flooding, and remains began to wash up on shore. W-ML&P offered payments of \$25 to the families of those whose graves were not moved. Most families refused payment.²⁴

In the summer of 1926, the BIA recommended that the power company pay a total of \$3,500 for not completing the building of New Post. W-ML&P did comply with that recommendation. The BIA also wanted the company to transfer off reservation lakeshore property to the tribe in lieu of replacing the rice beds. W-ML&P in reply gave two lakeshore properties totaling seventy-one acres in Washburn and Burnett Counties to the tribe. Neither site produced wild rice.²⁵ The lost ricing areas had produced approximately 25,000 pounds of wild rice per year for the tribe, a significant source of food and income to the tribe.²⁶

Chapter 3: Activism and the American Indian Movement

Indian activism experienced a relatively slow rise during the twentieth century in the United States, despite numerous transgressions against Indians, such as the flooding of Pahquahwong. Even into the 1960s, as other groups were actively protesting,

²³ St. Germaine interview.

²⁴ Rasmussen, 39.

²⁵ Ibid., 40.

²⁶ Pfaff, 52.

marching, and agitating, many Indians remained much more passive. In fact, as late as the last few years of the sixties, many Indians proudly stated that “Indians don’t demonstrate.” That changed in a hurry.

The first pan-Indian organization, the National Congress of American Indians (NCAI), was founded in 1944 in Denver, to provide an inter-tribal discussion of federal Indian policy issues.²⁷ NCAI came to be seen as an ineffective representative by many Indians. In 1961, a group of those Indians, seeking to have a more active voice in Indian affairs, formed the National Indian Youth Council (NIYC). Representatives of more than sixty tribes were involved in the formation of the NIYC. The Council’s stated purpose was “to declare their opposition to termination, make a ‘Declaration of Indian Purpose’ articulating their vision for federal Indian policy, and organize for political action.”²⁸

Clyde Warrior, one of NIYC’s more influential leaders, saw a need for an even more active role by the Council. Warrior and other NIYC leaders attended a conference in New York City in 1964 of liberals who supported Indian causes. At that conference, the “NIYC leaders used a press conference to condemn those who thought they knew what was best for Indians. They went on to chide their tribal elders, the ‘Uncle Tomahawks,’ who for decades had sold out Indian interests. And finally, they issued a call for Red Power.”²⁹ The call for Red Power represented a radical change in thinking within the Indian movement. The New York incident represented the beginning of a move toward more radical actions by American Indians, although the explosion did not take place for another five years.

²⁷ Nagel, 162.

²⁸ Ibid., 129.

²⁹ Lytle, 307-308.

Another event at about the same time took place in Washington state. Hank Adams, a Quinalt Indian, whose tribe had been terminated under federal policy, began to organize “fish-ins” to protest the loss of fishing rights that had been guaranteed in nineteenth century treaties. He openly fished illegally, according to white law, in front of the media and law enforcement. Adams gained the support and involvement of several celebrities, including Marlon Brando and Dick Gregory. Vine DeLoria, Jr., a fellow Indian activist, and former Executive Director of the NCAI, reflected on the impact of the fish-ins: “The increased militancy of Indians began to spread across the country as people heard about the fishing-rights issue. Indians began to examine the conditions under which they had lived, and they soon seethed with discontent and a new determination to correct the injustices.”³⁰

There have been attempts by many people to paint the growing Red Power movement as an outgrowth of the civil rights movements of the sixties. In many ways the Indian activist movement did draw some aspects from other civil rights movements, modifying those aspects to meet their needs. Even some of the terminology used was similar, such as fish-ins and sit-ins, and Black Power and Red Power. As DeLoria pointed out, “The civil-rights movement of the sixties affected Indians in many profound ways. The obvious success of the marches and demonstrations in getting policies changed taught a very important lesson to many young Indians.”³¹ There were, however, numerous ways in which the movements varied greatly, the most significant being in the overall goals. While other civil rights movements sought to gain equal rights within the

³⁰ Vine DeLoria, Jr., *Behind the Trail of Broken Treaties: An Indian Declaration of Independence* (New York: Dell Publishing Company, 1974), 27.

³¹ *Ibid.*, 23.

system, “Red Power activism was the progenitor of an American Indian ethnic rebirth”³² and sought to reinstate the rights of tribes as sovereign nations.

The event that in many ways kicked off the much more active period of Indian activism was the November 20, 1969 takeover of Alcatraz Island by the group calling themselves the Indians of All Tribes. Alcatraz, a former federal prison, had been closed by the federal government in 1963. The Indian group cited nineteenth century treaty rights allowing them to reclaim abandoned federal land as the basis of their claim to the island. The takeover began during the night when seventy-eight Indians were ferried to the island on boats, claiming the island as belonging to them. Indians came from all over the country to join in the occupation of Alcatraz. The occupiers also found a great deal of support from other activist groups, as well as from much of the local San Francisco media. The group issued a proclamation, stating their goals and plans to establish several Indian centers on the island. In January 1970, many occupiers began to drift away, and return to their lives. The occupation did not end, however, until June 1971.

Indian historians Paul Chaat Smith and Robert Allen Warrior claim that Alcatraz did not start Indian radicalism, but assert that it was the first event to get media attention, and that it kicked off forty-two months of “intense activism”³³ from Alcatraz through the Wounded Knee standoff in 1973. They do acknowledge however, that “seizing the Rock had been a stunning turning point in the history of Indian protest.”³⁴ According to Lytle,

³² Nagel, 113-114.

³³ Paul Chaat Smith and Robert Allen Warrior, *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee* (New York: The New Press, 1996), 36-37.

³⁴ *Ibid.*, 97.

“Indian activists at Alcatraz...hoped to symbolize the resilience of Indian people and their culture over the twentieth century.”³⁵

It was in that time frame and back drop that the American Indian Movement was born. Dennis Banks, in prison for stealing groceries from 1966-1968, began to study Indian history and ongoing protest movements. His studies led him to the belief that an active Indian rights group was needed to address discrimination and police brutality faced by urban Indians. After his release from prison, Banks contacted his friend and fellow community Indian activist George Mitchell about forming a movement. They organized a meeting in a church basement in Minneapolis. At that July 1968 meeting of 200 mostly urban Indians of Ojibwe heritage, the Concerned Indians of America was founded, led by Banks, Mitchell, and Clyde Bellecourt.³⁶ After they realized the initials of their new movement (CIA), they quickly became the American Indian Movement.

The major initial purpose of AIM was to monitor the streets of the Twin Cities and attempt to stop mistreatment by the police, specifically against intoxicated Indians. Other early concerns of AIM included social welfare aspects of Indian life, such as housing, education, legal aid, and jobs. According to Banks, AIM also provided much needed support for Indians. He said that “Before AIM our young people lived in despair. They drank themselves to death. They were ashamed to be Indians.”³⁷The organization adopted an upside down American flag as AIM’s symbol. According to Clyde

³⁵ Lytle, 314.

³⁶ Dennis Banks and Richard Erdoes, *Ojibwa Warrior: Dennis Banks and the Rise of the American Indian Movement* (Norman: University of Oklahoma Press, 2004), 60-62.

³⁷ Ibid., 157.

Bellecourt, “We had to explain that this was the international distress signal for people in trouble, and no one could deny that Indians were in bad trouble and needed help.”³⁸

After the takeover of Alcatraz, an event that several AIM leaders joined, the AIM leaders realized the need to adopt a much more activist stance. Banks and Bellecourt saw a need for AIM to become confrontational in order to accomplish its goals. Another important turning point in the increasing radicalism of AIM was the introduction of AIM leaders to Russell Means at a San Francisco conference in 1969. Means became enamored of the AIM leaders and their philosophy and joined AIM, starting a new chapter in Cleveland. Means, as a Lakota Sioux, provided AIM with the beginning of a more inter-tribal reputation. More importantly, Means helped to bring national attention to AIM through his dynamic public speaking and charisma.³⁹ By 1970, “AIM had decided on a policy: We would be advocates for any Indian man or woman, any Indian family, any Indian community, or any Indian nation. All they had to do was call us, and we would respond. But we would not go anywhere unless we were invited.”⁴⁰

The tactics that AIM used to accomplish their goals were “from the outset, militant, involving the use of demonstration, confrontation, and occupation, distinguishing AIM from most other national and local Indian organizations.”⁴¹ AIM personnel considered themselves to be crusaders in the manner of traditional warriors fighting for their traditional rights. It was precisely the approach that AIM took in attempting to achieve their goals that caused many mixed reactions toward AIM among

³⁸ Matthiessen, 37.

³⁹ Smith and Warrior, 132-134.

⁴⁰ Russell Means and Marvin J. Wolf, *Where White Men Fear to Tread: The Autobiography of Russell Means* (New York: St. Martin's, 1995), 175.

⁴¹ Rachel A. Bonney, “The Role of AIM Leaders in Indian Nationalism,” *American Indian Quarterly* 3, no. 3 (1977): 214.

Indians, especially more rural, reservation Indians. Some Indians in local communities began to look at AIM derisively, stating that AIM stood for “Assholes in Moccasins” and called them “poseurs from the city, charlatans, felons, and freebooters of racism.”⁴² St. Germaine summed up the mixed reactions of many Indians when he stated that “They [AIM] were doing some great things. They were putting their lives on the line. They were raising the consciousness of America to the plight of the Indians. But they were also in it for their own glory.”⁴³

AIM members themselves acknowledged that they were not always viewed in the most positive light by their fellow Indians, and with reason. Mary Crow Dog, wife of AIM spiritual leader Leonard Crow Dog stated that “We were not angels. Some things were done by AIM, or rather by people who called themselves AIM, that I am not proud of. But AIM gave us a lift badly needed at the time. It defined our goals and expressed our innermost yearnings.”⁴⁴

Regardless of their personal feelings about the approaches utilized by AIM, most Indians acknowledged the effectiveness of AIM in drawing attention to the difficulties that many Indians faced. According to Smith and Warrior, by 1972 “AIM was becoming the brightest star among the many Indian activist groups that had sprung up in the cities over the previous decade.”⁴⁵ Many reservation Indians who may not have liked the tactics did seem to understand the need for a group like AIM, and grew to accept them.

⁴² Smith and Warrior, 138.

⁴³ St. Germaine interview.

⁴⁴ Mary Crow Dog and Richard Erdoes, *Lakota Woman* (New York: Harper Perennial, 1991), 82.

⁴⁵ Smith and Warrior, 114.

“The Movement [AIM] was eventually endorsed by spiritual leaders of many Indian nations who saw these young militants as the last desperate hope of their people.”⁴⁶

By the late summer of 1971, at the time of the Winter Dam license renewal controversy, AIM had become an important player on the Indian rights stage. The vital role that they played in the eventual takeover of the dam cannot be denied. St. Germaine, as one of the original occupiers of the dam, admits that despite severe personal misgivings about the actions of AIM and their leaders at the dam site, without AIM, the takeover would not have occurred.⁴⁷

Chapter 4: The Dam Re-licensing Dispute

In the years following the construction of the dam, tribal conditions had worsened for the tribe in several ways. The LCO lost their traditional wild rice harvesting grounds, losing that source of both nutrition and income. Attempts were made to seed wild rice grounds, but due to water fluctuations caused by NSP’s operation of the dam, it was not possible to create new wild rice growth. There were also continual reminders for the tribal members of the broken agreements and personal losses. “Harsh physical reminders of the flooding—like the eroded remains of loved ones washing ashore—never failed to evoke pain and rage in tribal members, particularly the elders.”⁴⁸

It was in that environment of poor conditions that the controversy surrounding the re-licensing of the dam came before the tribal government in 1969. At that time NSP and the BIA brought up the issue of renewing the soon to expire 50 year lease. According to St. Germaine, “The Bureau of Indian Affairs indicated that it [re-licensing] was just a

⁴⁶ Matthiessen, 39.

⁴⁷ St. Germaine interview.

⁴⁸ Rasmussen, 50.

matter of signing to renew the lease and continuing the arrangement.”⁴⁹ According to him, the BIA was very paternalistic at that point in time, and the tribal government was very conservative, essentially doing what the BIA told them to do. He also felt that the tribal government at that point was a fairly unsophisticated group. It was in that atmosphere that “The tribal government just accepted the reality that it would probably just need to be renewed.”⁵⁰ Many council members saw the only viable option as getting more money from NSP. They did seek the advice of an attorney, but found that to be unproductive.⁵¹

In the fall of 1969, LCO member Peter Larson, returning from working in Massachusetts, spoke to the Tribal Council about the possibility of seeking legal control of the dam and the reservation property. It was after his urging that the LCO Tribal Council, by the end of 1969, passed a resolution “opposing NSP’s continued use of 525 acres of LCO land inundated by the flowage.”⁵² At that time, the LCO had the support of many environmental groups that opposed NSP’s continued operation. Those groups felt that NSP’s operation had negative environmental impacts on the surrounding ecosystem, especially upon the fish, due to the ways in which NSP controlled the water level, particularly the winter draw downs.⁵³

In late 1970, Larson asked Eddie Benton to talk to the tribal council about the tribe’s options in opposing renewal. Benton was an LCO tribal member, but he was also a leader of AIM. Benton urged the council to fight the license renewal. According to St. Germaine, “It was Eddie Benton’s intervention in late ’70 that got the [tribal] community

⁴⁹ St. Germaine interview.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Rasmussen, 50-51.

⁵³ Rasmussen, 51.

stirred up to fight against the re-licensing of the flowage by NSP and the BIA complicity.”⁵⁴ Among the tribal members joining Benton in speaking out against the re-licensing was newly elected Tribal Chairman Rick Baker, who took a strong stance against the renewal.

Rodney J. Edwards, an attorney representing the LCO, drew up a paper detailing to the FPC the objections of the tribe to the renewal of NSP’s license. The paper detailed several objections. First, he wrote that the Indian Reorganization Act of 1934 allowed tribal constitutions to prevent the sale or lease of tribal lands, which LCO’s constitution did. He asserted that the Act applied to the renewal. Further, the paper stated that:

“The inclusion of 525.50 acres of Lac Court Oreilles Indian Reservation lands as part of the project lands would be illegal and unlawful upon the following grounds: a.) The proposed license and leasing would be in violation of 25 USC Sec. 177 [part of the Indian Reorganization Act] b.) The proposed license will interfere and be inconsistent with the purpose for which such reservation was acquired, c.) The Lac Court Oreilles Band of Lake Superior Chippewa Indians of Wisconsin have disapproved the inclusion of their Reservation lands as part of the project.”⁵⁵

NSP obviously presented a different side of the debate. As part of their license renewal application, the company completed an Environmental Impact Statement in June 1971. The statement was written by Jim Fisher, who was referred to as an environmental consultant, and as an environmentalist in news articles. As part of the statement, Fisher acknowledged that the construction of the dam had significantly impacted the LCO in 1921. In addition to the negative impacts on the tribe as a whole, Fisher pointed to the tremendous impact of the dam upon those individuals who were forced to move. He

⁵⁴ St. Germaine interview.

⁵⁵ Rodney J. Edwards, Position Paper, Objections of LCO to FPC, Chippewa Valley Museum Archives.

wrote that “No economic benefit or monetary return can allay the impact of moving on people from traditional homes and surroundings.”⁵⁶

Although NSP’s Environmental Impact Statement acknowledged the previous negative impacts on the Indians, most of the statement was dedicated to highlighting the perceived positive effects of the dam and NSP’s operation of the dam. Among the positive environmental impacts listed was flood control for Chippewa Falls, Eau Claire, Durand, and other smaller communities. According to the statement, over 100,000 people were impacted by that aspect of the dam. NSP reported that the dam held back ten billion cubic feet of water during spring.⁵⁷

Another major positive environmental impact listed was recreation and forestry. According to the statement, the Chippewa Flowage was known for excellent fishing, camping, and boating. The positive effects of the Flowage on the local economy via tourism was also highlighted by NSP. Power production, at six down stream hydro plants was also listed as a positive impact by NSP.⁵⁸

NSP’s Environmental Impact Statement also listed what Fisher saw as three potential alternatives to re-licensing. The first alternative Fisher listed was abandonment, wherein the FPC would order NSP to abandon the dam, remove it, and return the area to its original state. As he pointed out, that alternative would have negative impacts on many communities down stream, in addition to the immediate area. The second alternative was recapture, in which Congress would order the federal government to pay NSP for the property and past expenses related to the dam and then determine control of the land. Fisher pointed to lost tax revenue for the state and county, an increase in

⁵⁶ NSP Environmental Impact Statement, June 1971, Chippewa Valley Museum Archives, 14.

⁵⁷ Ibid., 28-31.

⁵⁸ Ibid., 32-34.

pollution if NSP didn't control the surrounding land, and a high cost to the government in money owed to NSP as a result of recapture as among the negatives of that option. The third alternative listed was to re-license, with restrictions. Those restrictions would have negative impacts on the down stream hydro plants, according to the statement.⁵⁹

Both sides in the dam re-licensing debate strongly maintained their respective positions. NSP adamantly sought to have their fifty year license renewed by the FPC. The LCO, on the other hand, vehemently opposed the re-licensing of NSP's operation of the dam. Although the tribe had become ever more vocal in their opposition to the renewal, they felt that their stance and their issues were being ignored by NSP, the FPC, and the general public. That feeling led to more explosive events.

Chapter 5: The Takeover of the Dam

By late July 1971, LCO activists had come to the realization that their voices were not being heard by the dam decision makers. The LCO activists decided to host a three day powwow at Little Round Lake on the LCO reservation, in an attempt to draw media attention to the dam situation. The powwow failed to draw any of the media attention that its organizers had sought. According to Richard St. Germaine, Eddie Benton, an LCO member and AIM leader, had brought many of the other AIM leaders, including Dennis Banks, Russell Means, Clyde Bellecourt, and Vernon Bellecourt to the reservation.⁶⁰ It was during the night of July 31-August 1 that tribal and AIM activists held discussions around the powwow campfire, discussing and debating the situation. Some called for an occupation of the dam, while others favored a slower, more

⁵⁹ NSP Environmental Impact Statement, June 1971, Chippewa Valley Museum Archives, 34-36.

⁶⁰ Rasmussen, 51.

methodical approach. Later in the morning of August 1, Clyde Bellecourt asked where the dam was, which seemed to seal the decision to take over the dam for many Indians.⁶¹

According to St. Germaine, he and a few others had been camped out at the dam already during the night of July 31-August 1. He states that he, along with Mike Tribble and Eddie Benton's families were camped out at the dam that night. Tribble and Benton were both LCO members, as well as AIM members. St. Germaine opines that the common perception that the occupation began on August 1 was because that was when "the AIM hoodlums showed up."⁶² It was at that point that the media reported the occupation of the Winter Dam as having begun. It was also on Sunday, August 1 that Eddie Benton made a statement at Historyland, a tourist attraction near Hayward, about the tribal views of the dam re-licensing issue. At the same time, AIM representatives and some LCO tribal members drove to the dam. When they arrived, the Indians found a locked gate, and the dam patrolled by three Pinkerton security guards, together with a watch dog. After one unsuccessful attempt to ram the gate open by Jim White, AIM leader Dennis Banks succeeded in ramming the gate open with his car. Benton, who had finished his earlier statement at Historyland, then issued a statement that the Winter Dam had been taken over and was under Indian control. The Indians immediately declared it a peaceful protest.⁶³ Once the announcement was made, the tribe and AIM got the media attention that they had been seeking.

The presence of security guards had not been a regular occurrence at the dam prior to July. F.J. Kripps, a Northern States Power Company Vice President, said that the guards were present at the dam at that point "because the company had heard reports that

⁶¹ Rasmussen, 52.

⁶² St. Germaine interview.

⁶³ Rasmussen, 53.

something was in the wind.”⁶⁴ Once the Indians arrived at the dam, the three guards quietly left the grounds, under prior orders, to avoid a confrontation. According to an NSP spokesman, the Indians “used some force,” but also stated that no violence was reported.⁶⁵

The occupation was first reported in newspapers on August 2. According to the *Eau Claire Leader-Telegram*, “Several dozen Indians, apparently most of them from the American Indian Movement, have started an occupation of the Northern States Power Co. Dam on the Chippewa Flowage.”⁶⁶ The *Leader-Telegram* reported that five or six of the Indians were locals from the LCO tribe, while the rest were AIM outsiders, some from as far as New Mexico and Massachusetts.

During the occupation, LCO tribal chairman Rick Baker reported that approximately two hundred Indians were occupying the 1,265 foot earthen dam. He stated that LCO tribal members were joined in the occupation by AIM delegations from other areas. Baker also stated the intent of the Indians for the occupation to be a peaceful demonstration. His statement also revealed that the Indians were not seeking confrontation, but were hoping for the Sawyer County Sheriff’s office aid in keeping out militant whites.⁶⁷ St. Germaine agreed with the fact that LCO members had agreed to maintain the occupation as a peaceful demonstration. He states though that many members of AIM arrived at the dam occupation carrying rifles and other guns, and that some AIM members wanted to wire the dam to blow it up. He points out that it was not the AIM leaders that brought in the weapons, but rather “it was those young punks, those

⁶⁴ *Milwaukee Journal*, 2 August 1971.

⁶⁵ *Ibid.*

⁶⁶ *Eau Claire Leader-Telegram*, 2 August 1971.

⁶⁷ *Milwaukee Journal*, 2 August 1971.

young AIM followers who were just looking for war—they wanted a shootout, they wanted something to happen.” St. Germaine credits Benton with maintaining the peace at the dam, and “moderating the temper of the AIM leaders.”⁶⁸ Benton also had to act as a go-between with the tribal council, many of whom were not appreciative of the occupation.

During the takeover, the Indians camped in tents and lean-tos on the dam site, built bonfires for cooking and warmth, and utilized provisions that various occupiers had brought to the site. They also painted slogans on wood walls near the dam, including “Indian Power” and “This is Indian Land.”⁶⁹ The Indians also reportedly set up security patrols to guard the area and make sure that no damage was done to the dam or surrounding area.

Reactions to the takeover varied. According to St. Germaine, LCO elders were not happy with the takeover. He called them a conservative group, used to being told what to do by the BIA. He also recalled that the majority of the tribe did not like the occupation, although a few thought that it was a great action.⁷⁰ Baker though, was firmly in support of the occupation, and said that at a closed meeting on August 2, “The Tribal Council voted to sanction the demonstration, as long as it remained peaceful.”⁷¹ Baker considered his recent large election victory as a mandate for his policies. He also claimed that the action had the support of various environmental groups, the Lake Chippewa Resort Association, and the National Tribal Chairmen’s Association. Eugene Taylor, chairman of the Great Lakes Intertribal Council also supported the occupation. The

⁶⁸ St. Germaine interview.

⁶⁹ *Milwaukee Journal*, 3 August 1971.

⁷⁰ St. Germaine interview.

⁷¹ *Milwaukee Journal*, 3 August 1971

Chippewa Flowage Alliance, a loosely composed group of interested individuals, mostly Indians, stated however that “The protesters are 95 per cent from the outside. We’ve got nothing to do with it.”⁷²

Reaction from the surrounding white community was generally negative. NSP was not issuing statements during most of the takeover, so as to not make the situation worse. Many white residents in the area were angered by the takeover, especially since rumors were widely floated that the Indians had wired the dam with explosives. Law enforcement officials worked to maintain a peaceful situation at the dam site. Some law enforcement officials considered asking the governor to send in the National Guard to ensure the safety of all, but ultimately that request was not made. Sawyer County Sheriff Donald Primley refused to comment about the situation to the press, stating that he did not want to give the Indians any additional publicity. He felt that publicity was what the Indians wanted. At one meeting though, Primley told the Indians that they would not be forcibly removed from the dam site.

According to St. Germaine, Sheriff Primley had poor relations with the tribe prior to the takeover. When the takeover happened, Primley “was really ticked off. He blocked the road coming in and AIM pushed their way through that blockade.”⁷³ Some Indians reported being threatened by deputies as they attempted to enter the dam area. “One, Herbert Powlses of Milwaukee, said that deputies had threatened to shoot him, his wife and children if they entered the area.”⁷⁴ Primley denied the report, saying that his deputies would not do that.

⁷² *Eau Claire Leader-Telegram*, 2 August 1971.

⁷³ St. Germaine interview.

⁷⁴ *Eau Claire Leader-Telegram*, 3 August 1971.

During the takeover, the Indians made their demands known through the media. At a Monday, August 2 press conference, Eddie Benton stated that “Indians had stood by while their identity and culture had been splintered by white men. Now ‘in the spirit of Alcatraz’ he said ‘we no longer will accept your white god—money.’”⁷⁵ Benton reported at the press conference that the takeover had wide support in the Indian community, and had participants from other states such as South Dakota, Colorado, Wyoming, and New Mexico. Benton also used the press conference to call for the intervention of Wisconsin Governor Patrick Lucey. Benton sought Lucey’s support for the tribe’s position and for federal recapture of the dam. Under a recapture scenario, NSP would be reimbursed for their initial costs of the dam, but the land would be recaptured by the government. The government would then determine the appropriate use of the land. Recapture would require an act of Congress though.

Tribal Chair Rick Baker echoed Benton’s call for recapture of the dam. He stated that the Federal Indian Reorganization Act of 1934 “clearly stated that Indian tribes should have the power to prohibit the use of their tribal lands or infringements upon their rights.”⁷⁶ Baker laid out the tribe’s demands of the return of 520 acres of the flowage land to the tribe, 6,000 acres returned to original Indian owners, and 8,000 acres left as wilderness area. He explained that the tribe would be responsible if given control of the dam, seeking the assistance of federal and state agencies to assist with flood control below the dam. Baker also pointed out the failure of NSP to keep the agreement made in 1921, in particular, NSP’s failure to complete construction in New Post, failure to reseed

⁷⁵ *Eau Claire Leader-Telegram*, 3 August 1971.

⁷⁶ *Milwaukee Journal*, 2 August 1971.

wild rice beds, and failure to move burial grounds. He noted that the occupation was “intended to bring honor to the Indian and an end to a century of dishonor.”⁷⁷

After Benton’s call for intervention from Governor Lucey, Lucey agreed to send two representatives to meet with the Indians on his behalf. Those representatives were Joseph Preloznik, an attorney who headed Wisconsin Judicare, and Lucey’s personal staff member Robert Dunn. Indian leaders met with Preloznik and Dunn, along with Sheriff Primley, R.C. Miller, regional superintendent of the BIA, and Larry Leventhal, an attorney for the tribe. After that meeting, Lucey issued a statement, offering to the tribe appropriate assistance from the state, acknowledging that he shared the Indians’ concerns about the dam issues. He also pledged to give full attention to Indian issues and proposals. On Tuesday, August 3, Lucey called Baker, pledging his assistance, proposing a meeting with the tribe, NSP, and his office, and asking Baker to end the occupation of the dam. Lucey also issued a public statement that he had offered his assistance to the tribe and that he found it unfortunate that the Indians had felt it necessary to take over the dam.⁷⁸

After getting the response from Governor Lucey, the occupation of the Winter Dam ended on August 3, 1971. Baker at that time stated that “The objectives of the demonstration have been met. We have decided to end at this point. We’ve had a favorable commitment and reaction from people all across the country.” He also stated that “I think the governor stuck his neck out for us. The Chippewa [Ojibwe] nation is very pleased that the governor has given us this support.”⁷⁹ There was not consensus to end the takeover at that time, however. St. Germaine stated that there was disagreement

⁷⁷ *Eau Claire Leader-Telegram*, 3 August 1971.

⁷⁸ *Eau Claire Leader-Telegram*, 4 August 1971.

⁷⁹ *Ibid.*

between AIM and the tribe about ending the occupation. He said that Benton had to convince his fellow AIM leaders that it was over. In fact, said St. Germaine, AIM leader Russell Means still wanted to blow the dam up, and had to be talked down by other leaders.⁸⁰ In his autobiography, Means stated only that AIM “threatened to open it [the dam] up.”⁸¹

After the occupation ended on that Tuesday, a number of Indians stayed at the dam that night for a powwow to express appreciation for the outside help that the tribe received. All of the Indians had departed from the site by Wednesday, August 4. Many of the Indian leaders were quick to point out, however, that they would quickly return to the dam and re-occupy it if they saw that as necessary. AIM director Vernon Bellecourt said that the main reason that the Indians had left the dam was “concern over local residents’ reaction. ‘They (the local Chippewas) are worried about public pressure’ he said. ‘They are worried about what the local people here will do if we stay much longer.’”⁸² Bellecourt also expressed his unhappiness with the decision that was made to end the dam occupation. “‘I’m pessimistic’ he said. ‘I hope I’m wrong. I hope Lucey will live up to his word and that we will be given what we’ve been told we will get. But too often—no, always—it happens that we meet the white man’s terms and then the white man turns his back on us.’”⁸³ Local LCO AIM leader Mike Tribble also reiterated that the dam could quickly be re-occupied if the meetings, tentatively scheduled at that time for August 16, were not productive.

⁸⁰ St. Germaine interview.

⁸¹ Means and Wolf, 179.

⁸² *Milwaukee Journal*, 5 August 1971.

⁸³ *Ibid.*

Although there is disagreement about the actual role that AIM played in the takeover of the Winter Dam, and about their activities while on the site, AIM did have a vital role in the takeover. St. Germaine, who stated that he was disgusted by many of the actions of AIM during the takeover, including excessive partying and bringing in weapons, admits that the occupation could never have happened without AIM. He stated that “AIM gave people the courage to go out there and take a stand.”⁸⁴

Chapter 6: Negotiation and Settlement

The occupation of Winter Dam by the LCO and AIM ended when Governor Lucey intervened and promised to aid negotiations to reach a settlement. Although a meeting between all of the parties involved was scheduled for later that same month, little did anyone realize that it would be nearly fourteen years before a final settlement would be reached between NSP and the tribe.

One influential individual, U.S. Senator Gaylord Nelson, was active in seeking resolution to the dispute. He immediately urged the FPC to hold hearings in Wisconsin on the dispute before taking any action. He also pointed out that there were many important issues involved including those of Sawyer County, the local townships, and conservationists, in addition to those of the LCO and NSP.⁸⁵

Later in August, Senator Nelson announced that he would introduce a bill to the U.S. Senate proposing the recapture of the Chippewa Flowage and dam. In the bill, S2795, which was never enacted, Nelson proposed the federal government take over the dam, and that “several thousand acres” be restored to the LCO reservation. The main

⁸⁴ St. Germaine interview

⁸⁵ *Eau Claire Leader-Telegram*, 9 August 1971.

concerns that Nelson cited in the bill as reasons for the recapture were environmentally based. He stated that the flowage was an important recreational area, dependent upon fishing, and that there was concern about the impact of the water level variations controlled by NSP. He also addressed the desire that in the future, the shoreline would remain in a wilderness state. According to the bill, his concern was that a future change in NSP management could lead to development of the shoreline. In the bill, Nelson also stated that the U.S. Department of Agriculture recommended recapture. Further, he wrote that the U.S. Interior Department recommended that past LCO land be restored to the tribe if the dam was recaptured.⁸⁶

In addition to the support of Senator Nelson, the tribe also received significant support from Governor Lucey. Keeping to his earlier word, Lucey scheduled a meeting between the tribe, NSP, the government, and other interested parties for August 27, 1971 near Hayward. The meeting had an attendance of approximately 200, including Lucey and Nelson, both of whom smoked a peace pipe with tribal leaders at the meeting to demonstrate their support.

During the meeting, Lucey expressed his support of the tribe. Lucey stated that “‘I philosophically support the concept of recapture and restoration of tribal lands’ (now under the control of NSP.)”⁸⁷ Lucey further expressed support of the tribal position when he said that the expired lease was “‘a relic of its day when equal protection under the law was provided only for a small minority. It was indicative of the blightest [*sic*] period in U.S. history and I pledge whatever support I can to see your [tribal] grievances are

⁸⁶ U.S. Congress. Senate. 1971. Bill to Recapture the Chippewa Flowage. S.2795. *Congressional Record*, November 2, 1971: S17346-7.

⁸⁷ *Eau Claire Leader-Telegram*, 28 August 1971.

properly aired.”⁸⁸ Lucey also acknowledged that the meeting would not have occurred without the occupation of the dam, although he regretted that the occupation had been needed. The final show of support from Lucey at the meeting was his announcement of the planned formation of a Wisconsin state Bureau of Indian Affairs, to be headed by an Indian.⁸⁹

The major tribal representatives at the meeting were Baker, Benton, and the tribal attorneys Leventhal and Ward Winton. The tribe took a strong stance immediately at the meeting. The tribal representatives asserted that NSP had not kept its commitments from the original lease agreement. They also ruled out the possibility of any new lease, stating that “the only negotiations they would participate in with NSP would be those ‘to determine how much you owe us for past injustices.’”⁹⁰ Further, the Indian representatives sought to have NSP authority removed from the dam and to have NSP charged with trespassing on tribal lands. They insinuated that they would be seeking monetary repayment for income that NSP had received during the previous fifty years from rental of what they considered to be Indian land to resorts, and for the loss of income from destroyed rice beds.⁹¹

As could be expected, NSP maintained a different stance during the meeting. NSP president Wilbur Marx was present at the meeting. He stated that NSP wanted to settle the issue peacefully and also to continue to operate the dam under the same arrangements as the previous lease. According to Marx, NSP was proud of the manner in which the company had managed the dam and flowage, and equally proud of their future

⁸⁸ *Eau Claire Leader-Telegram*, 28 August 1971.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

plans for management. Marx pointed out that over one million dollars had been pumped into the local economy through tourism as a result of the flowage and NSP's environmentally friendly management of the area. The final major point Marx made at that meeting was that, although no power was produced directly at the dam, six downstream hydro electric plants dependent on the operation of the Winter Dam produced sixty per cent of the power company's total power generation in the state.⁹²

As part of the ongoing negotiations, Leventhal authored a legal position paper on behalf of the tribe. Dated August 28, 1971, the paper detailed the tribal position regarding the re-licensing issue. One of the opening statements of the paper that summed up the position of the tribe said the license NSP had received was "issued in disregard of property rights and of the express disapproval of such a project by the members of the Lac Courte [*sic*] Oreilles Band, who now demand a return to them of the control and utilization of their own land."⁹³ The paper focused on historical, legal, and economic issues.

In reviewing the historical aspects of the LCO arguments, Leventhal argued that W-ML&P and its successor company, NSP, failed to meet the company's side of the deal, as detailed in an earlier section. The paper also pointed out that since the flooding, several areas of LCO land were inaccessible, except via water routes. He also reviewed the 1934 Indian Reorganization Act, which guaranteed Indians control over their own lands equal to that of whites. Leventhal argued that the rights guaranteed by the IRA superseded the provisions of the 1920 Federal Power Act that allowed for the Indian land

⁹² *Eau Claire Leader-Telegram*, 28 August 1971.

⁹³ Larry B. Leventhal, *Position Paper of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Relative to the Chippewa Reservoir Federal Power Project No. 108*, August 28, 1971, 1.

to be taken. Finally, he pointed out that three general meetings of the tribe prior to the dam construction had all rejected the power company's proposal.

Leventhal's legal arguments centered mainly on provisions related to the IRA. He asserted that those provisions asserted the predominance of tribal desires in relation to the disposal or use of their lands. As a result, he argued that a new license could not be legally issued over tribal objections. His other main legal argument was that the tribe was denied due process and equal protection under the law guaranteed by the Fourteenth Amendment of the U.S. Constitution when Congress passed the 1920 Federal Power Act. That act allowed the FPC to issue the original license to the power company over tribal objections, resulting in the assertion of denial of due process and equal protection.

Economic arguments were also highlighted in the position paper. Leventhal alleged that the tribe lost a large amount of money in several ways. First, he asserted that W-ML&P purchased approximately 6,000 acres at below market prices due to the assistance of the BIA, to the detriment of Indians. Secondly, the FPC never adjusted the rental rates paid to the tribe by NSP, as required by the agreement at twenty years, then every ten subsequent years. In that time, the value of the land had increased tremendously. Finally, he estimated that the tribe lost in excess of \$800,000 due to the loss of their wild rice harvesting grounds. Leventhal stated that if the tribe gained control of the disputed dam and lands, that they would be able to reseed those rice growing areas.⁹⁴

The position paper concluded with the tribe's proposal. According to that proposal, the 525.5 flooded acres would continue to be owned by LCO, and 6,000 acres of previously Indian owned land would be returned to LCO. The rest of the land would

⁹⁴ Leventhal, 2-14.

be public use, managed by a government agency. The flowage would not be drained, and the water level would be adjusted only for flood control purposes. Finally, the area would be maintained in a wilderness state, with limited recreational development allowed only on Indian land.⁹⁵

In the months following the August meeting, both sides continued to voice their positions through the media and the community. In November 1971, the University of Wisconsin-Eau Claire hosted an Arena of Ideas, at which representatives of both sides spoke. Eddie Benton reiterated many of the tribal positions when he spoke there. He also asserted that the BIA, FPC, and W-ML&P conspired to steal 6,000 acres from Indians in 1921, even after the tribe rejected power company proposals three times. He stated that the tribe did not want to destroy the dam, but did not want NSP to retain control. Benton also argued that the need for flood control was a “fallacy.” He said that “only five per cent of the flood water that comes through here [Eau Claire] comes into the river above the dam.”⁹⁶

The following day, Jim Fisher, an environmentalist and the author of NSP’s Environmental Impact Statement, spoke at the university. He asserted that NSP had a very good environmental record at the dam, and that no other agency could perform better than NSP. He also refuted tribal claims that NSP had failed to keep many parts of the license agreement. He stated that NSP maintained records that showed, for example, that many homes had been built in New Post, despite tribal claims otherwise.⁹⁷

During the latter months of 1971, several community groups also weighed in with their opinions. The thirteen member Sawyer County Board voted unanimously to support

⁹⁵ Leventhal, 16-17.

⁹⁶ *Eau Claire Leader-Telegram*, 16 November 1971.

⁹⁷ *Eau Claire Leader-Telegram*, 17 November 1971.

re-licensing of NSP's operation of the dam. Another group, the Concerned Citizens for the Preservation of the Chippewa Flowage, made up in large part of resort owners, circulated a position supporting NSP's re-licensing, with restrictions on water level control.⁹⁸ Similar groups and individuals were concerned about potential loss of tax revenue from NSP if the license was not renewed.

The debate and negotiations continued on for a lengthy period of time. NSP received repeated one year extensions from the FPC, and its successor agency, the Federal Energy Regulatory Commission (FERC). According to St. Germaine, the negotiations extended to nearly fourteen years for several reasons. He said that it just wasn't a priority for many parties, as NSP continued to receive extensions. He also felt that the issue was not a priority for Leventhal, the tribe's attorney. Leventhal's location in Minneapolis also factored into the delays.⁹⁹ During that time, the operations of the dam continued as before, diminishing any sense of urgency for many involved parties.

Finally, on October 1, 1984, a settlement was announced. NSP's press release on that date stated that an agreement had been reached after numerous public hearings and lengthy negotiations, and had been approved by FERC. According to the release:

The agreement gives NSP perpetual flowage rights on 525 acres of tribal land and the right to continue controlling the water level. In exchange, NSP will give the LCO 4,500 acres of land, including 2,200 acres NSP currently owns within the reservation boundary and 2,300 acres of abutting land. There will be a buffer zone along much of the flowage shoreline. An additional part of the settlement is a cash payment of \$250,000 to the LCO.¹⁰⁰

⁹⁸ *Eau Claire Leader-Telegram*, 12 November 1971.

⁹⁹ St. Germaine interview.

¹⁰⁰ NSP Press Release, 1 October 1984.

NSP also agreed to maintain the surrounding area in a wilderness state. A further component of the agreement was that the tribe would build a hydroelectric generating plant at the dam and would sell the power that was generated directly to NSP.

After the lengthy negotiation process, the settlement was signed at the NSP offices in Eau Claire in 1985 by then Tribal Chairman Richard St. Germaine. St. Germaine stated that the majority of the tribe was pleased that the issue had been settled, and they were satisfied with the agreement.¹⁰¹ Although the tribe did not accomplish their ultimate goal of recapture of the dam, they did receive fairly significant compensation from NSP.

Chapter 7: Conclusion

The increased Indian activism continued into the 1970s. Several more visible and better remembered events took place in the following years. In 1972, Indian activists, led in large part by AIM, embarked on the Trail of Broken Treaties to protest 372 treaties that had been broken, according to the Indians. The caravan originated in California and culminated in Washington D.C. in November 1972, with the take over of the Bureau of Indian Affairs building. The Indians declared the building the Native American Embassy, and issued a position paper, the 20 Points, which largely called for respect for treaties and Indian rights. The take over ended six days later, after a period of violent confrontation between Indians and city police had ended, and a negotiated settlement had been reached between the Indians and the government.

¹⁰¹ St. Germaine interview.

One of the most violent and well known Indian activist occupations took place the following year, 1973, at Wounded Knee, South Dakota. Wounded Knee was the site of the 1890 massacre of over 300 Indians by federal troops. AIM originally arrived on the Oglala Sioux reservation to protest the allegedly corrupt tribal government of Chairman Dick Wilson. Many members of the tribe accused him of running the reservation as essentially a police state. On February 27, AIM took over a trading post and the surrounding area at Wounded Knee. Federal law enforcement, as well as troops from the U.S. Army arrived at the stand off and stayed for the entire duration. The occupiers named themselves the Independent Oglala Nation, a sovereign nation. Violence erupted on both sides during the seventy-one day standoff, during which two Indians were killed by government snipers. The siege resulted in many of the Indian leaders becoming federally wanted fugitives.

The Wounded Knee incident was in many ways the end of Indian activism. Activism among Indians did continue for several more years, but on a generally much smaller, more peaceful scale. AIM had been classified by late 1972 as an extremist group by the FBI, and AIM's leaders were on the FBI's list of key extremists.¹⁰² The government began to even more actively prosecute AIM leaders after the conclusion of the Wounded Knee siege. According to Lytle, "To destroy AIM, the government launched a massive campaign of criminal prosecutions. No charge was too far fetched nor evidence too flimsy to stop the prosecutorial machinery."¹⁰³ AIM did fight back, and many times won their cases. However, the expense and time involved in those legal cases drained the movement.

¹⁰² Matthiessen, 55.

¹⁰³ Lytle, 315.

Although AIM was never the complete Indian activist movement, they were a large part. The decline of AIM was a big contributing factor in the general decline of Indian activism, which experienced a relatively fast decline after 1973. Smith and Warrior aptly summed up the decline of the activist movement by saying that “As quickly as Indian radicalism had exploded on the national stage, it faded, disintegrating under the weight of its own internal contradictions and divisions, and a relentless legal assault by federal and state governments.”¹⁰⁴

Despite the rapid fall of the Indian activist movement, a great deal had been accomplished by the activists. According to Lytle, they raised the country’s awareness of the plight of the Indians, their culture, and their heritage. “They created widespread sympathy that helped Indians expand their rights and enforce treaty provisions. Their visibility strengthened the opposition that put an end to termination and encouraged the Nixon administration to reform the BIA.”¹⁰⁵ Joane Nagel wrote an effective post script to Indian activism, writing that “Indian culture and tradition became valuable and endangered resources to be preserved, maintained, and revitalized by the renewal of history and community.”¹⁰⁶

Although the occupation of the Winter Dam by LCO and AIM activists is not a well known event now, it represented a major turning point for Indians in Wisconsin. The takeover drew attention to the plight of the LCO, and made state residents and organizations take notice. For the first time, the governor of Wisconsin openly supported Indians in their protest against past oppression by white men and treaty violations that had been perpetrated. A U.S. Senator introduced a bill to Congress largely representing

¹⁰⁴ Smith and Warrior, 269.

¹⁰⁵ Lytle, 315.

¹⁰⁶ Nagel, 158.

their interests. This all happened because a small group of Indians brought attention to the issues through their occupation of the Winter Dam. Charlie Otto Rasmussen summed it up well when he wrote:

No longer casualties of civilization, the LCO Ojibwe forced others to realize that their culture was alive, that it did matter that their land was usurped, that cemeteries were inundated, that their rights were violated. For many state and federal leaders it was clear that the licensing of Project #108 [the Winter Dam] was an infamous example of an era when Indians received little protection from the government that had pledged to protect them.¹⁰⁷

Rasmussen's concise statement sums up well the ultimate achievement of the takeover of the dam by LCO and AIM activists. Although they did not achieve their objective of federal recapture of the dam, they made themselves heard, made other groups and entities respect their rights and views, and ultimately, they gained financial and land considerations from NSP. No longer would the tribe be controlled by a paternalistic BIA. From that point, they became a much more truly self-governing entity.

¹⁰⁷ Rasmussen, 58-59.

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