

LAKE TIDES

A newsletter for people interested in Wisconsin Lakes

Volume 16 No. 4

Fall 1991

The Legend of Legend Lake

by Andy Pyatskowit and Robert Korth

The story of Legend Lake is similar to stories going on in many parts of the planet as the growing population pushes for elbow room. It is the story of an encounter between old and new ways, a skirmish between the haves and the have nots, and a struggle to understand each other and ourselves, while defining what is important in our lives. The seeds of contention run as deep as the philosophies, traditions, and reverence that people hold toward the land, the waters, and all living things, including each other. To understand Legend Lake requires a feel for the intricate path that led the Menominee People and the lake to this point in time...

The history of the Menominees is evidence of their determination to preserve and protect their identity and their land. When Jean Nicolet first met these people in 1634, they lived near the mouth of Baye de Verte (Green Bay). As the result of treaties with the encroaching whites, they moved to the Lake Poygan area. When Chief Oshkosh was told to move his people to Crow Wing, Minnesota, he took his plea to President Fillmore. The result was a treaty whereby land on the upper Wolf River was set aside as a reservation. On October 1, 1854, 2002 Menominees packed their belongings and paddled from Lake Poygan up the Wolf to their new home.

Time after time, these people fought attempts to take their land and their identity. They struggled against outside forces and they fought among themselves. A general allotment system in the early 1900s caused heated debate. They argued when the Insull Utilities interests tried to appropriate and dam the Wolf River. In the early fifties, the mood in the nation's capitol was one that tended toward ending federal supervision over Indians. After a decade of political maneuvering and misunderstanding, the Menominee Tribe was terminated on May 1, 1961. Menominee County was formed on that same day by an act of the State Senate signed by Governor Gaylord Nelson. The county consisted of one political town and provided normal services, except that public education and judicial processes were administered by neighboring Shawano County. Under the economic plan Menominee Enterprises Inc. (MEI) was created to hold and administer the tribal resources of land, forests, and the lumber mill. Each Menominee received a bond with a face value of \$3000, which was to mature in the year 2000.

"We Will Make It" signs only hinted at the difficulties that would come in the first ten years. The newest and smallest county in the state had an assessed valuation of \$16 million; \$15 million was assessed to MEI. The lumber mill had to bear 93% of the county's tax burden. Within two months of termination of the tribe, bills for the property were sent to all homeowners in the county. Most owners had no recourse but to offer their MEI bonds for the land that had always been theirs. Termination played a part in the loss of

federal contracts for the mill, the closing of the Bureau of Indian Affairs school, and the reservation hospital. State, federal, and tribal officials saw a desperate need to develop the county's incredible recreation potential. The development of the Wolf River was part of the plan, but that phase never came to pass. Later the Wolf received Wild and Scenic River status. In 1967 MEI commenced development of the Legend Lake area on its own. Following plans laid out by the firm of Ernst and Ernst, a dam was built. When the lake failed to fill, a lake builder and developer by the name of N.E. Isaacson was contacted. Menominee Enterprise Inc. signed a partnership agreement with Isaacson in 1968. The project would develop 2600 lots in the 5170-acre site. It called for the connecting of eight small lakes with water from Linzy Creek to form a lake that would be called Legend. Two watersheds were connected by the removal of a million yards of soil. The development and sale of lots began immediately on Legend Lake. Prospective property buyers were given glowing sales pitches and looked upon the purchase as their "dream retirement;" most were unaware of local sentiment and underlying tribal culture and tradition. Property buyers became members of Legend Lake Property Owners Association, a mandatory lake association that would expire in 1999.

Despite the impressive economic gains for the county, there was dissent among tribal members. Community members still saw the county as the "reservation" and the concept of selling land was foreign to traditional tribal culture. Many members saw themselves becoming second-class citizens in their own backyards. The 1970s saw the emergence of a grassroots group called Determination of Rights and Unity for Menominee Shareholders (DRUMS). They were dissatisfied with the MEI leadership, and protested the sale of Menominee land on Legend Lake. They called for an end to sales on Legend Lake, the democratizing of MEI, and the reversal of termination.

Meanwhile, construction on Legend Lake led to a reversal of groundwater tables, causing water levels to rise by seepage. Tribal outrage over the environmental effects became apparent when DRUMS brought suit against the Department of Natural Resources (DNR)

and MEI. Circuit Court Judge Lewis Charles declared the project had an adverse environmental impact, then later lifted his restraining order. DRUMS and the newly-elected MEI dominated by DRUMS pressured the Isaacson firm to effect a dissolution agreement. The remaining unsold lots went to MEI, making MEI the largest single property owner. The following two years were filled with political ping pong both on state and federal levels. There were court rulings stopping sales of lands on the lake and reversals of those rulings.

On April 23, 1975, in an unprecedented action, the Menominee reservation was restored and the county continued to exist. The following years saw the Menominee community and the white property owners accepting the existence of the other in the framework of county and tribal government.

The end of the millennium marks a critical date for the Legend Lake Property Owners' Association (LLPOA). 1999 marks the end of the mandatory association. At the present time, LLPOA has a full-time staff, buildings, and programs ranging from water quality to social activities. Funding comes from dues; members who do not pay can be taken to small claims court. By law, the mandatory association set in the deed restriction has a limit of thirty years unless provisions were made in advance for renewal of deed restrictions. One hundred percent of the property owners would need to agree on renewal to continue the association. LLPOA



decided their best option was to form a lake district. The efforts of the LLPOA to form a lake management district caused controversy in the Menominee community. Lines were drawn, with the Association on one side and the Menominee Indian Tribe on the other.

At a recent hearing of the Menominee County Board, the real issue of maintaining lake water quality seemed to be lost in the rhetoric of tribal sovereignty, resource management, state vs. tribal jurisdiction, and taxation. The petition to form the district with a majority of signatures was turned in to the Menominee County Board but no action has been taken.

LLPOA officials feel they are getting the run-around and, understandably, would like a lake district to be formed as soon as possible. Tribal officials feel their philosophy, traditions, and reverence for the land should dominate whatever actions are taken at Legend Lake and went on record as opposed to the formation of a lake district. However, tribal officials expressed a willingness to sit down and discuss with appropriate agencies and interested parties a holistic approach to lake management that would deal with many of the issues raised by the Association's petition to the county board for the formation of a lake district.

The Association feels that it has contributed to the maintenance of the lake's water quality. Dues payments have been used to fund lake management activities. Tribal officials pointed out that they too have been working to ensure the maintenance of good lake water quality through several federally-funded programs. Obviously, both sides are interested in the lake, albeit for different reasons.

The sun appears to be shining on a new era in the ever-evolving relationship between the Association and the Menominee Tribe. The door seems to have opened for a way to better understanding the philosophical variations between the parties. If there is a lesson to be learned from recent developments, it is that a face-to-face discussion under any circumstances is the best way to resolve discord. The Menominees and the Association see the need for lake management. Tribal officials seem to be saying that

perhaps they can work together in achieving objectives and still maintain basic philosophical differences. The significant point is that the preservation of the water quality in Legend Lake and other lakes in the Menominee Community will continue to remain as the focal point of future discussions.

Andy Pyatskowitz is UWEX Community Resource Development Agent in Menominee County. Robert Korth is editor of Lake Tides.

This article would not have been possible without the help and insight of the following people. Special thanks to Gordon Dickie, Lucille Chapman, Shirley Daly, Letitia Caldwell, Ike Isaacson, William Mildenstein and the Legend Lake Assn. Also, the writings of Patricia Ourada and Nicholas Peroff.

N.E. (Ike) Isaacson has resided in Arizona for the past eleven years where he is still involved in development. In a phone interview he stated that, "with the increasing state and federal regulation on shore and wetlands, the days of large lake developments are gone."

ON THE WATERS



The Way We Were:

Mining and Oil

by Jennifer Genke

"There is a lot of excitement about oil these days in Wisconsin. Who knows, but northern Wisconsin may become the place of as much wealth and the scene of as much excitement as the oil regions of Pennsylvania were." Appleton Crescent, April 5, 1865. Appleton, with a population of 2700 in May of 1865, was supporting seven petroleum companies in various stages of organization...

Wisconsin prides itself as America's Dairyland; but prior to the notoriety for milk and cheese, Wisconsin made its debut as a mining state. Cities like Mineral Point made their mark with lead and zinc mining--27 million pounds in 1872. Iron Ridge took its name from the mineral found there. Even peat, the product of hundreds of Wisconsin's marshes, attracted interest. The years following the Civil War saw the Wisconsin legislature overwhelmed with mining and smelting companies looking for charters.

Through the years, many aspects of mining have been questioned and, most recently, these questions concern the water environment. In 1968, Kennecott Copper Corporation discovered copper in Ladysmith, Rusk County. This discovery prompted environmental regulations to be developed, the most important of these being the Wisconsin Environmental Policy Act (WEPA) which "provides for the preparation of environmental impact statements for projects which may significantly affect the environment." The environmental impact statement for the Ladysmith mine was passed in 1976, but during hearings in November of that year, Kennecott was denied approval by the Rusk County Board unless certain conditions were met. Rusk County wanted greater benefits from industry tax dollars and improved personal property rights. In November

1977, the Kennecott mine permit application for Ladysmith, was dismissed.

Kennecott interest in the Ladysmith copper mine has been renewed and environmental concerns have been heightened. This 32-acre pit is 140 feet from the banks of the Flambeau River, which is home to at least three endangered species: the purple warty-black clam, the bullhead clam, and the snake-tailed dragon fly. Riparians along the Flambeau River have their concerns about property values declining in the future due to contaminated water.

In Bayfield County, the possibilities of oil discoveries have led to a buzz saw of opposition by environmentalists. Terra Mining Company, was denied permission to drill for oil by the county board until an environmental impact study was accomplished. Terra Mining Company has threatened to pull out or to see if DNR and state requirements supersede those of the county.

In the early years of this century, Michigan's Keweenaw Peninsula produced over ten billion tons of high grade copper; over 11,000 miles of tunnels were dug. At times, over 95% of America's copper came from this region. With the removal of the copper, the economy crashed. The area population of approximately 100,000 plummeted to 10,000. The City of Calumet boasted an opera house that seated 1500. Today the entire city has a population of only 1012. Accumulations of copper mine tailings have left a toxic legacy of those prosperous days. Torch Lake, near Houghton, Michigan, has been declared an area of concern by the International Joint Commission. Clean-up costs could be as high as one billion dollars.

Empty towns and barren mines are proof that the mining done by the early settlers may not have been as positive as they had hoped and we are reminded that what remains of our natural environment may not be worth the temporary economic boost. We must be able to assure ourselves that short-term gains are worth the long-term risks to our dwindling fresh water supply and clean air.

Jennifer Genke, a UW-Stevens Point graduate, worked with Lake Tides this summer.

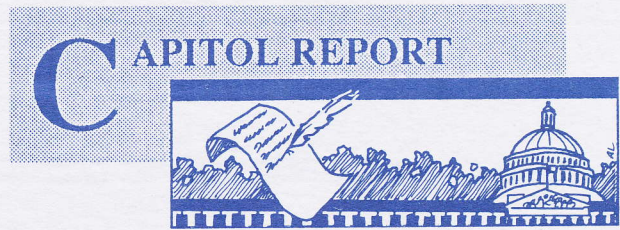
Boating Bills Surfacing

The Legislative Council appoints study committees on major issues of broad concern. These special study committees consist of legislators from each party in each house and public members with expertise or familiarity with the topic. The committee makes a recommendation to the Council, which may then introduce legislation to deal with the issue. Bills introduced by the Council have a much better chance of becoming law than bills introduced by individual legislators. During this legislative session, Senator Chuck Chvala chaired a non-point pollution committee and Rep. Spencer Black chaired a study committee on surface water. A bill has been drafted to improve river management and provide for river classification. A parallel measure on urban waterways, including a state grants program, has been introduced.

Of special interest to lake organizations is the bill being drafted to deal with personal watercraft ("jet skis") and many other boating concerns. The study committee made the following recommendations:

- Require a boating safety course for operators under 18 years of age.
- Require motorboat operators to have corrective lenses if needed for highway driving. Persons with day-use only driving license may only boat during the same hours.
- Increase penalties for violation of boating laws to be consistent with drunk driving laws.
- Make operator responsible for overloading or overpowering.
- Prohibit sale of motorboats with motors that exceed 86 decibel level.
- Provide that boaters charged with speeding cannot use the defense that they didn't know how fast they were moving.
- Allow DNR, upon the request of one municipality that abuts a lake, to impose boating safety regulations if all abutting municipalities cannot agree on such regulations.
- Require DNR to prepare model ordinances on equipment, use, and operation of boats on inland lakes, which vary based on the density of boat traffic on the lakes.
- Add "slow-no wake" zones within 100 feet of shoreline of a lake, 100 feet of any boat not under mechanical power, and 100 feet of any boat if the operator is driving a personalized water craft.
- Personal watercraft users would be required to wear personal floatation devices.
- Require operators of personal watercraft to be at least 16 years of age.
- Prohibit all-terrain vehicles from navigable water except on ice.
- Extend skiing rules to barefoot skiers.
- Prohibit the use of devices where the operator is outside the power source and controls the boat remotely for purposes of skiing.
- Increase boating safety course fees from \$2 to \$5.
- Increase boat registration fees by 100% for small boats and 200% for large boats.
- Provide \$1M a year for additional boating safety aids to local units of government, plus 6 DNR warden positions, and associated equipment.

Several other bills have also been introduced to deal with boating conflicts. We encourage you to share your concerns with your legislators and ask for copies of the bills.



Minnesota and Maryland PWC Laws

Maryland and Minnesota have enacted laws to regulate the use of Personal Water Craft (PWC). High points of Maryland's law include a requirement that an operator be 14 years old and that a certificate of boater safety is necessary if you are born after July 1972. Persons may not operate PWCs after sunset or before sunrise, and must reduce speed to 6 knots when within 100 feet of piers, bridges, vessels, or people in the water. A person may not operate a PWC in a negligent manner. Jumping of wakes or weaving through traffic is considered negligent operation.



New Panfish Bag Limits Proposed

The Natural Resources Board is proposing to reduce the combined bag limit on panfish (bluegill, crappie, pumpkinseed, and yellow perch) on inland waters from 50 to 25.

Purpose The reduction will protect large-size panfish from overharvest, as well as distributing the harvest of panfish among more anglers. Some lakes have experienced declines in numbers of large panfish following intensive harvest. Information from angler surveys shows that a few anglers (5%) harvest a significant amount of all panfish (39%). Harvest of all panfish would be reduced 17% if these anglers had been subject to a 25 bag limit. Harvest of yellow perch would have been reduced 25%.

Impact This proposal may distribute yellow perch harvest among more anglers and protect high-quality fishing for large panfish in

some waters. It will keep rules simple for all waters, but may not produce significant changes in panfish populations in many waters.

Alternatives Other alternatives such as reduced bag limits on large fish or regulations by species have not been adequately tested. These types of rules need further study before they can be applied with any certainty of success to individual waters or categories of waters.

Hearings were held on this issue and public input collected from around the state. The comments will be analyzed and a summary presented to the DNR Board on October 23-24. For more information, contact Mike Talbot, DNR Bureau of Fisheries Management, PO Box 7921, Madison WI 53707 (608/267-7503).

ECO NOTES



Leave it to Beaver

by Sterling Strathe

Imagine Wisconsin in the 1600s--a vast untouched wilderness, wetlands teeming with wildlife. When European explorers first set foot on this land, they were looking for gold. They found a different treasure. It wasn't gold, but something just as precious--beaver. European fashion had created a great demand for the felt top hat. As a result, beaver in Europe had been virtually extirpated by trapping. Fur traders and their "freight companies," the voyageurs, moved along the waterways in search of "rodent gold." Their influence changed both a way of life and the landscape in Wisconsin.

The beaver had been a sacred animal to the native people. As they removed a beaver, they respected its life by returning its bones to the pond. The French fur trader came bearing modern utensils, gadgets, pretties, and fire water. The traders didn't trap the beaver themselves, but rather traded these goods to the Indians for beaver pelts. As the Indians became addicted to the trader's merchandise, they started a line of credit and became indebted to the fur company. All respect for the beaver was lost. In a few short decades, the beaver was virtually removed from Wisconsin. The stage was set for the beaver baby boom of the late 20th Century.



By 1900, laws had been enacted to protect the remaining beaver, but beaver populations remained low well into the 20th Century. As populations grew, trapping was again allowed. Prices paid to the trapper during the 1970s and 1980s left little incentive to enter the icy waters of the beaver pond. The baby boom was on. In less than two decades, populations had exploded and conflicts with landowners had intensified.

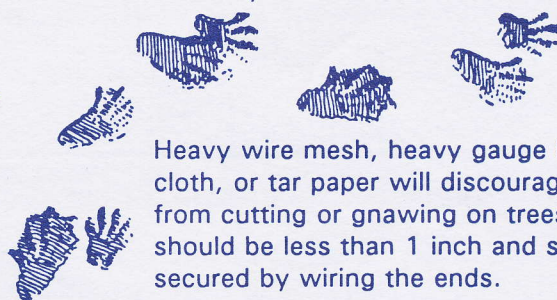
Today, you, as lake enthusiasts, may be experiencing confrontations with beaver. What can you do? As a land owner, you have four basic options: learn to live with beaver, protect your property, discourage beaver from colonizing, or remove the beaver.

Learning to Live with Beaver

You may be able to live with minor chewing of trees or ornamental plantings. Turn this problem into an opportunity. Beaver can provide many hours of "watchable wildlife" enjoyment. Their ponds create wetland habitat for a variety of animals and plant life. Remember it is this very beauty and wildness that probably attracted you to your lake retreat.

Protecting Your Property

If you are unable to live with the damage beaver cause, there are several ways you can protect your property. Commercial repellents are available that discourage deer and beaver from decimating plants. Most nurseries and garden centers sell repellents. For more information on repellents see the University of Wisconsin Extension Publication #G3083 - Controlling Deer Damage in Wisconsin, available at your local Extension office.



Heavy wire mesh, heavy gauge hardware cloth, or tar paper will discourage beaver from cutting or gnawing on trees. Mesh size should be less than 1 inch and should be secured by wiring the ends.

Discouraging Beaver from Colonizing

If beaver are plugging entrance or exit culverts to your lake, the problem can be solved by building a horseshoe fence around the upstream side of the culvert. Although the beaver may attempt to build a dam around the fence, the debris is easier to remove from the fence than from the inside of a culvert. A series of baffles can be inserted to the entrance of the culvert to similarly deter construction.

(continued)

If high water is the problem, water levels can be controlled by inserting "beaver pipes". Water can be regulated at levels that do not cause problems or that may encourage the beaver to move to a new site. The basic construction consists of inserting a drainage pipe through the dam. For more information on proper construction or needed permits for any of these devices, please see Wisconsin DNR Publication WM-007 (90), Beaver Damage Control, available at your local DNR office.

Removing the Beaver

Removing the beaver and their engineering accomplishments is the last, and least desirable, option available. Not only is this a difficult and expensive process, but it is often a short-term fix. If the area you are trying to protect attracted beaver in the past, chances are they will recolonize the area in the next few years. Although the laws regulating removal of nuisance beaver and their structures have been liberalized, you should obtain the publication Beaver Damage Control for more information and recommendations.



As you assess beaver damage on your property, remember that "rodent of gold." No longer is their pelt of great value, but their engineering know-how and stamina have provided rich wetland areas and wildlife habitat. These areas are precious additions to the dwindling wetlands remaining today. Your benevolence on behalf of the beaver may affect much more than your property.

Sterling Strathe is Director of the Sheboygan County Outdoor Skills Center, and is a biologist and trapper.

Calendar

Wisconsin Federation of Lakes Annual Meeting and Conference
Saturday, October 5, 1991
Fond du Lac Holiday Inn
More information:
Elmer Goetsch 715/546-12340

North American Lake Management Society International Symposium
November 11-16, 1991
Denver, Colorado
More information:
Jim LaBounty 303/236-6002

1992 Wisconsin Lakes Convention
March 13-14, 1992
Stevens Point, Wisconsin
More information:
Diane Lueck 715/346-3783

Aquatic Species Face Great Perils

National Wildlife, Aug-Sept 1991

Pollution, habitat destruction, and introduced species are killing off North America's aquatic animals at an alarming rate, warns The Nature Conservancy. Some 30 percent of freshwater fish species in the United States and Canada are now endangered, threatened, or of special concern, Conservancy scientists report. One in every 10 freshwater mussel species has become extinct in this century, and a majority of the rest are in serious trouble. In comparison, terrestrial wildlife remains "relatively intact." Although valuable as food, models for medical research, and indicators of water quality, fish and shellfish have a public relations problem. "Because they lack fur or feathers and exist in environments where few persons can see and appreciate them," says Conservancy zoologist Larry Master, "it is difficult to muster public support for their conservation."

Envirovets

Report, Coll. of Vet. Medicine, U. of Illinois Urbana, Spring 1991

Midwest veterinarians are pitching in to help clean up our nation's water with the blessing of governors from states bordering the Great Lakes. The governors have chosen to use their recently-established "Great Lakes Protection Fund" to help underwrite "Envirovet," a program designed to protect aquatic life and water quality in the lakes.

The \$35,000 grant to Envirovet is one of the first made from this new fund. The four-week, intensive Envirovet program will provide training in aquatic animal medicine for veterinarians, veterinary students, and others interested in aquatic biology.

According to Dr. Val Beasley at the Univ. of Illinois College of Veterinary Medicine at Urbana and director of the Envirovet program, the program will focus on the comparative morphology and physiology of aquatic animals and the effects of pollutants on them. "Experts in ecology, risk assessment, pathology, toxicology, epidemiology, and aquaculture will provide training for Envirovet participants. Program participants will learn how to better interpret and protect life in the Great Lakes and its watershed."

Improved detection of the early effects of environmental toxicants on aquatic life and the associated ecosystem damage will be an area of primary emphasis. As diagnosis of the poisoning problems of aquatic animals becomes more efficient, the extent of environmental damage due to water pollution will be more readily controlled.

Envirovet will be held each summer at the Center for Lake Superior Environmental Studies in Superior, Wisconsin. Dr. John Dellinger, director of the Center, has also been involved in setting up Envirovet from its inception. Envirovet is also working with the Illinois-Indiana Sea Grant Program as well as with industry to obtain funding for the project.

Lakes in the '90s Conferences

The dog days of July saw lake enthusiasts from all over northern Wisconsin converge on UWSP's Treehaven and Spooner's Convention Center. People taking their first steps into lake management and seasoned veterans shared insights at the Northeast and Northwest Lakes Conferences. Many of the sessions, such as lake planning and the limnology field trip offered plenty of "hands-on" experience. Attendees were updated on issues ranging from mercury to the recreational conflicts and given a better understanding of the meaning of the Public Trust Doctrine.

Folks were gratified to connect a name with a face and get straight answers to their questions. Thanks to all who participated; it's satisfying to be in the company of people who will go the extra mile to leave the land and the waters a little better than we found them.

Updated Image

Notice our new artwork--another fine effort by April Lehman. You've seen her work before on the cover of The Lake List, on the Convention banners and brochures, and our Summer Conference flyers. Nice job, April!

Keep in Touch

Beaver Dam Lake in Barron County and the Waupaca Chain of Lakes, Waupaca County, formed new lake districts this summer. We want to hear from you if you are newly established! Make sure you contact us to be included in The Lake List, the directory of lake organizations.

Lake Tides would also like to hear from you if you have comments or questions. Help us to be your newsletter.

REFLECTIONS



As a boy growing up in the mid-fifties, I can remember the excitement of driving north on Highway 55 through Keshena. This was a place of legend and mystery. The road was cooled by the canopy of ancient forest and the air was heavy with the scent of pine. Occasionally, the route was determined by the trees and parted to go around them. Just north of Keshena Falls we would stop on the edge of the roadway to visit a crumbling granite rock surrounded by a low white fence, Spirit Rock. This is the land of the Menominees. The legend of Spirit Rock says that Ma nabus told the Menominee people that when the rock finally crumbles away, their tribe will no longer exist.

by Robert Korth



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