Coming out of the shadows:

Asserting identity and authority in a layered homeland:

The 1979-82 Mud Lake wild rice confrontation

by

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Abstract:

The 1979-1982 Ardoch-Mud Lake wild rice confrontation is a microcosm of aboriginal issues throughout Canada. It began when the Ministry of Natural Resources (MNR) issued a wild rice harvesting license to a private harvester without consultation with local peoples. This action shocked and mobilized the community, and raised many broader issues.

The wild rice community at Ardoch consists of non-status Algonquin, status Mississauga, and non-aboriginal residents. These people found themselves entangled in a system of laws that ignored their values, interests, access to, and authority over a local resource. They faced a history of exclusion regarding Algonquin peoples, Aboriginal rights, and local communities’ wishes to shape their own environments.

The story of the Ardoch Algonquin community and its historical connection to the Mud Lake wild rice not only demonstrates a community’s attachment to its environment, but also shows the great potential for unity in adversity between Aboriginal and non-Aboriginal peoples.

Part I describes the settlement and development of the Ardoch region, including the local wild rice history; the exclusion and denial of Algonquin and other Aboriginal people in the Ottawa valley; and the evolution of Aboriginal and resource policies in Canada. Part II uses academic writing and research on resources, Aboriginal issues, the mechanics of power and social categories to analyze this history.

The author pieces together the story from documentary and original sources, then explores the themes of authority and Aboriginal rights, ‘Indianness’, and resource use, management, and development contained within. By contrasting state
perspectives with local perspectives, she uncovers underlying meanings and power structures, demonstrating that the belief structures of the state are power-laden, culturally loaded constructs, deeply influenced by colonial ideologies.

The Mud Lake conflict is not over. The 1982 dispute ended in stalemate - an agreement to leave the substantive issues for another time. The MNR continues as the official Provincial authority over wild rice, and the Mud Lake community continues its communal harvesting and management of wild rice. The issues of Algonquin and other claims, Aboriginal rights, and authority continue to be disputed country-wide in similar struggles over natural resources.
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Introduction:
CHAPTER 1: INTRODUCTION

On a fall day in 1979 the Ardoch community became aware of the Wild Rice Harvesting Act. For several days local residents had heard a sound, which was initially thought to be a helicopter. Finally, one resident, wanting to see what was happening, went to take a look. He discovered that a commercial harvester was on the lake harvesting the wild rice. This non-native resident, thinking something illegal was in progress, attempted to make a citizens arrest but was shown the harvesting permit held by Mr. Richardson of Lanark Wild Rice (Ottawa Citizen, July 23, 1980:65). This quiet, inconspicuous act set in motion a four-year conflict, which would drastically influence the local community, build bridges of co-operation between diverse groups, and set in motion a challenge to provincial authority which is yet to be resolved.

This thesis explores the 1979-82 Ardoch, Ontario Mud Lake wild rice confrontation, and the sudden and public assertion of an otherwise quiet identity in response to an external threat. The issuance of a harvesting licence for the wild rice on Mud Lake to a commercial company drew sudden attention to the relationship between a people and a resource in a place. These people were a loose-knit group of families descended from Algonquin peoples, Mississauga peoples, and others living in the area at the time of contact. This resource was part of the community heritage of living on, and with, the land. It was harvested annually, through customary practice, primarily by local non-status Algonquin, and status Mississauga relatives from Alderville, but also by local non-Aboriginal residents in a shared, and mutually supportive fashion. This place was a site of meaning for an otherwise dispossessed people. Yet this local reality exists outside of the wider issues of Provincial control. The evolution of events in the broader context suddenly takes form on Mud Lake
through Provincial initiatives to further wild rice production. It is this sudden collision between local and Provincial realities that leads to the 1979-82 Mud Lake wild rice confrontation.

Communities, like cultures, are not static. The sense of ‘community in adversity’ that took shape throughout this conflict was an alliance of different identification groups within the Ardoch area. These included permanent non-native residents, cottagers, local non-status Algonquin families, and their Status Mississauga relatives from Alderville. These diverse groups perceived of the Ardoch area differently, had different histories of association with the region, and held different emotional and cultural attachments to place as a site of meaning, creating a homeland layered with diverse meanings – a layered homeland. The importance of this association has much to do with scale. The local history of the area is imbedded with the sometimes-conflicting nature of the dynamics between these various groups. Yet there was an association in opposition to ‘the other’ which allowed for their different sets of claims against the Ministry of Natural Resources (MNR) and the outside world to find an easy alliance – for a time – to advance a shared use of a local resource, and to oppose a common adversary.

While the rice harvest was known in the area as an annual event, its importance as a symbol of identity was submerged. While ‘Indian’ identities were recognized in varying degrees by Aboriginal peoples, and non-aboriginal members of the community, this identity was largely irrelevant in the day-to-day business of the larger community of Ardoch, Ontario. However, like any significant event that draws sudden attention to what is important in our lives, the threat to the annual rice harvest challenged deep meanings, a challenge which has led to an adamant stand, and an
outward assertion of an identity which had otherwise been obscured. This crisis was
the call to move out of the shadows, and to assert an Aboriginal authority that
contrasted starkly with Provincial perspectives.

This story, while local in scope, and insignificant in the larger dealings of
resource concerns, is a focal point into the issues that pervade Aboriginal/State
relationships over natural resources in Canada. While events took shape the way they
did because of the local specificities, they were also influenced by events at the
Provincial, National, and global scale, and by the ideas that have most powerfully
shaped resource policy since contact.

To some extent, this dispute is a global one, marked by the colonial legacies and
‘post’-colonial climates of our time. The story of this dispute, along with an
understanding of the specific contexts of resource and Aboriginal policy in Ontario,
provides insight into the fundamental issues at stake in Aboriginal/State conflicts in
general. It explores the ideas that have most strongly influenced resource policy,
specifically in Ontario, and places a critical eye on the discourses affecting the
various players in such conflicts.

Discourses are ideas that are consciously or unconsciously imbedded in our
communication with each other. They are stories that we tell ourselves about the way
things are, or the way they should be. Discourses articulate value-laden conceptions
of the world, and are drawn on to influence and construct the very structure of our
built and ordered world. These ideas are expressed within society through the
statements and arguments we create to support our visions of society. They flow from
who we are as individuals, and communities, bound to the places that shape us. They
are often used as the means through which we construct, and deconstruct, the
legitimacy of opposing views and perspectives.
In the realm of natural resource policy, discourses around Indianness, resource use, and rights and authority have significant implications for the regulation of resources and the designation of rights of access and authority. Since European contact, ‘western’ discourses have been used to constrain Aboriginal authority over, and access to, resources. They have been drawn on to construct a society that places control over resources in the hands of the state, an authority removed from the localities they influence. Therefore, how these ideas benefit some, and disadvantage others, is implicitly geographic, as are the means through which these ideas are formed, expressed, and validated.

My goal is to illustrate how state perspectives are expressed in the case study materials as if they are rational, natural, and beyond question\(^1\). I also seek to illustrate how these discourses are either validated and supported, or questioned, challenged and counter-constructed, by the other parties involved in the dispute. This will illustrate the plurality of the discourses around the construction of the focus categories. To show how discourses are constructed, and to contrast them with other constructs, is to show them not as natural, or given, but mutable. In this way, the empowered constructs of the state become visible as culturally loaded positions. This will, I hope, open them up to reconstruction in ways that are consistent with new attitudes to justice arising out of advances in social understandings of the processes of discrimination, and the ongoing processes of colonial practice.

Chapter 2 of this thesis concerns itself with significant Federal and Provincial legislation, treaties, and court cases that have defined Aboriginal identification policy and Aboriginal resource policy. Resource policy engages directly with discourses around rights. The legislation, treaties, and court cases that have defined it, have
done so in a way that has placed limits on Aboriginal peoples’ authority over lands and resources within their territories. Furthermore, they have dictated the application of rules and regulations that have limited Aboriginal peoples’ use and access of those lands and resources. This history illustrates the process whereby Aboriginal authority was restricted and state authority was asserted.

Identification policy has also sought to place limits on Aboriginal peoples. It defines the critical who of ‘who qualifies’ for special consideration in the decision making processes of the state. The development of Aboriginal identification policy has shown an increasing move towards limiting those who qualify for registration. These restrictions have further limited use and access of natural resources by some Aboriginal people. In addition, Indian policy has been inextricably linked to resource policy through the powers over ‘Indian lands’ granted to the Superintendent General of Indian Affairs through the various Indian Acts.

At the time of the Mud Lake confrontation, Ontario’s Aboriginal resource policy rested squarely on a number of fundamental principles originating from the Constitution Act 1867. Firstly, Ontario had, as a fundamental role, to govern natural resources as resources belonging to all of the peoples of Ontario. This was to be carried out through scientific management techniques for the purpose of maximum economic benefit to the Province, and to all of the citizens of Ontario. The exemption of any one group from this management structure was seen as detrimental to overall control and management. Ontario’s ‘Indian’ policy considered ‘Indians’ as a federal responsibility. ‘Non-status Indian’ and Métis peoples were recognized as having no special rights, or if rights did exist were considered a Federal responsibility based on

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1 For a detailed discussion of methodology please see appendix 1.
section 109 of the Constitution Act 1867. These ideas had a fundamental impact on the potential for dialogue and effective negotiation of the dispute.

Following from this material, chapter 3 looks specifically at wild rice as a resource, and provides a more focused contextual history for the Mud Lake dispute. It explores the plant in historical context, Aboriginal peoples and wild rice culture, the development of wild rice policy, and the Wild Rice Harvesting Act 1960/1971 (WRHA). This chapter also explores the legal basis of Aboriginal water, and water resource rights, at the time of the conflict, and provides examples through the Treaty 3 headland-to-headland and wild rice debates of State-Aboriginal relations over wild rice prior to the Mud Lake conflict. This chapter further illustrates the process whereby Aboriginal authority was circumscribed and state authority asserted. It also illustrates the refusal of Aboriginal communities to accept state authority over wild rice, and illustrates their continued resistance to that authority.

Chapter 4 of this thesis reviews the local histories of the region in order to provide a context for the evolution of the case study dispute. It begins with a review of current research into the history of Algonquin occupation of the Ottawa Valley. This is followed by a review of research on settler movement into the larger area (especially Clarendon Township), through a variety of settlement policies. I explore the influence of those policies on the location, functional possession, and visibility on the landscape (as recorded in land registry records which failed to illustrate Aboriginal occupation) of the original inhabitants.

I then focus on the Ardoch region itself, and the circumstances leading up to the Mud Lake conflict. Predominantly through interviews, but with reference to materials located in AAFNA’s files and Canadian census information, a snapshot of the Ardoch region leading up to the 1980 time period is developed. Finally, I begin to
explore the relationship between Harold Perry and his family with the wild rice at Mud Lake through local narratives, and oral testimonies prepared at the time of the conflict. The intent here is to attempt to understand the local dynamics that contributed to the particular evolution of events during the Mud Lake conflict. This section provides a context for understanding the history of Aboriginal power in the local region. It establishes their continuing presence but invisibility in the landscape, and provides a glimpse of the layered power dynamics of the Ardoch region through the continuity of Aboriginal authority and traditional management of the Mud Lake wild rice crop in spite of official Provincial control over wild rice resources. Once again, this material illustrates the process whereby Aboriginal authority over their territory was circumscribed, and state authority asserted. However, the continuity of the traditional rice harvesting practice reflects a degree of continuity, if unofficially, of traditional power structures within the region.

Chapter 5 then begins to tell the story of the Mud Lake conflict. From primary data sources I attempt to explore the involvement of the Ministry of Natural Resources (MNR) with the wild rice at Mud Lake. Again, through a variety of materials, letters, newspaper articles, the Crysler & Lathem LTD report on the possible effects of a dam proposed to be built on the Mississippi River, and through documents in the MNR files I piece together the evolution of events that brought the MNR, and the Ardoch community into conflict over the wild rice at Mud Lake. I then provide a description of the events as they unfold throughout the four-year study period. This chronology of the conflict is a critical part of the thesis narrative. It tells the story of community mobilization through their efforts to defend the wild rice crop, and their way of life. It also illustrates the positions taken by the MNR and other parties relative to the issues at stake. This chapter also provides a framework upon
which to situate discussions about the main themes and discourses as they are expressed by the various parties in the dispute.

Chapter 6 then provides a detailed look at these discourses. I have chosen to view three major themes that are significant to this case study. These include (1) authority and Aboriginal rights, (2) Indianness, and (3) resource use, management, and development. Through these themes I explore the various discourses drawing on previous chapters, as well as current academic writing on resources, and Aboriginal issues to interpret their meanings. The purpose of this chapter is to show that colonial ideologies are actively at work in contemporary resource policy, and deeply influence the geography of power over natural resources. I also illustrate that the belief structures of the state are not natural, logical, or universally held. Rather, by contrast with local perspectives, they are shown to be culturally loaded and power-laden constructs, inextricably bound to an economic model, and insensitive to the diverse linkages between local peoples and local resources.

Disputes over wild rice and Ontario wild rice policy engage inextricably with the themes of identification and resource policy. Within Ontario, wild rice has been treated as a Provincial resource. Furthermore, while ‘status Indian’ people have been nominally recognized as deserving some special consideration for access, ‘non-status Indian’ and Métis peoples have been excluded from this special provision and have been seen as having no right other than that of each of Ontario’s citizens to apply for licence under the Wild Rice Harvesting Act 1960. Thus, a small group of non-status Algonquin families and their allies, living, and harvesting at Mud Lake were not seen to have any special right. Rather, within the confines of the Constitution Act 1867, and the Wild Rice Harvesting Act 1960, they were in contravention of the law for harvesting without a permit.
These concerns will be explored through the narrative of the Mud Lake wild rice confrontation. Aboriginal and state concerns will be explored through their engagement in this conflict. Involvement by the media and non-native peoples in the dispute will provide a counterpoint to the issues being explored.

The engagement with an Aboriginal/State dispute that took place twenty years ago may seem insignificant. However, the same issues that came to the foreground at Mud Lake continue to be articulated in the present. At root in these conflicts are issues of authority: authority over self-definition, as well as authority over lands and resources. We are in a period of change. Canada/Aboriginal relations are being fundamentally altered through court cases (see Delgamuukw 1998; and Marshall 1999) and through land claims agreements (see the Nunavut agreement 1992). These changes have National significance. Yet they come largely from the growing assertion by Aboriginal peoples of their presence and authority in the local spaces of their lives. These changes are about a new relationship that respects Aboriginal peoples’ history, context, and life ways in all of the spaces of their lives.
CHAPTER 2: LAW, POLICY, & RIGHTS

In order to understand the events of the Ardoch-Mud Lake conflict it is important to understand the evolution of resource and Aboriginal policies that have placed limits on Aboriginal rights over time. At time of contact, Aboriginal peoples lived in organized societies and had complex systems of rules and norms that guided and defined the control of lands and natural resources. Despite these complex cultural relationships with natural environments and the resources within them, non-aboriginal society disregarded, devalued, and attacked those relationships, and drastically affected their continuity.

Resource and identification policies are two interconnected components of this process. Principally, lands and resources had first to be extricated from Aboriginal control. In addition, Aboriginal peoples’ continuing relationships with natural resources threatened the jurisdiction, management, and control of those resources by state agencies. Thus, the eventual assimilation, or extinction, of Aboriginal peoples had the effect of freeing lands and territories of prior encumbrances. It was the intent of these policies to eliminate any obstruction to non-aboriginal access and control of Aboriginal lands and resources. Since Aboriginal interests have been recognized, to a considerable degree, as interests in lands and resources, the result is that resource policy engages directly with discourses on Aboriginal Right.

I do not consider Aboriginal Right to be a right of use alone. Aboriginal Right in my view cannot be separated from Aboriginal authority. Otherwise, the use is always conditional and problematic. However, I do not intend by this to suggest that this constitutes the idea of Self-Government currently under consideration. Rather Aboriginal Right is constitutive of the authority and right to govern that was present prior to contact with European Peoples and the subsequent denigration and assault on that authority by European, and later Canadian society. It is this original Aboriginal Right that forms the basis for the push for Self-Government today. However, I would suggest that the term Self-Government is articulated and defined differently by various players, and is itself worthy of examination.
The legislation, treaties, and court cases that have defined resource policy historically, have done so in a way that has placed limits on Aboriginal peoples’ authority over lands and resources within their territories. Furthermore, they have dictated the application of rules and regulations that have limited Aboriginal peoples’ use, and access of those lands and resources. The most critical pieces of legislation, treaty, or court processes which have defined early Aboriginal/State relations in regard to natural resources in Ontario are the *Royal Proclamation of 1763*, the *Constitution Act 1867* (otherwise known as the *British North America Act (BNA) 1867*), the *St.Catharine’s Milling case 1889, An Act for the settlement of certain questions between the governments of Canada and Ontario respecting Indian lands 1891*, and the *1924 Canada-Ontario Indian Lands Agreement*. While these are not the only pieces of legislation that are relevant to contemporary resource disputes, they are, strictly speaking, the foundational pieces governing Aboriginal resource access and control in 1980 at the point of the Mud Lake conflict.

While these events establish a base for the development of Aboriginal resource policy, there are many other events that are just as important in illustrating the chronology of Aboriginal dispossession from their authority and access to resources in Ontario. The various Indian Acts were themselves a vehicle for manipulating Aboriginal resource rights, especially related to reserve lands. Some of this legislation dictated that authority over reserve lands were to be administered by the Indian agent or other Crown representative, while some provided for the alienation of ‘Indian’ lands from reserve territories. Assessing these less dramatic events illustrates the evolution of ideas relative to Aboriginal peoples and resources.

In addition, *Indian Act* definitions of an ‘Indian’ served to exclude certain members from ‘Indian’ status, and thus any special right or access which may have
been tied to that status. Aboriginal identification policy in Canada, prior to the Constitutional amendments of 1984, has been increasingly restrictive, seeking to limit, through definition, the legal position of Aboriginal peoples relative to land, as well as the numbers of people for whom the Crown had responsibility (Tobias 1991). In the post-Confederation period, Non-status and Métis peoples have been seen as on their way to ‘civilization’, and thus no longer requiring the special assistance of the Crown. For all intents and purposes, these people were seen as Canadian citizens with no special rights (RRC 1975; Tobias 1991).

These changes culminated in the *Indian Act, 1951*, which, while addressing some negative aspects of the previous Acts, provided for the application of Provincial laws on reserve lands, the criminalization of many aspects of native harvesting, and drastically focused criteria for the qualifications for ‘Indian’ status. Together, these changes formed a Provincial policy of exclusion and restriction that came close to annihilating Aboriginal resource rights.

The post-WWII years dramatically altered the social climate in Canada. This period spurred a critical reinterpretation of social policy, providing a climate for the reconceptualization of Aboriginal policy generally. In this time frame, the Calder case (1973), the implementation of a comprehensive claims policy (1973), and the repatriation of the Constitution (1984) forever changed the legal position of Aboriginal people, and reopened the debate surrounding Aboriginal rights in Canada (Brock 2000). While the Provincial government made some effort to respond to these changes they remained hesitant to advance Aboriginal rights. Aboriginal resource policy continued to be influenced by Provincial economic development and resource concerns.
The Evolution of Aboriginal/State relations: land, resources, and identification

1780 – 1889: Protection of Aboriginal Lands and Definition of Indianness

In 1760, after the British defeat of the French, Article 40 of the French capitulation guaranteed Aboriginal peoples’ protection for their lands. This guarantee was, however, difficult to enforce, and colonial governments showed little interest in evicting squatting settlers (Dickason 1997:153). Seeking peaceful relations in response to Aboriginal concerns over protection for their lands, the British government’s Royal Proclamation, 1763 recognized, at least partially, the territorial rights of Aboriginal peoples (Dickason 1997:155, also Bartlett 1990; Imai 1993; Surtees 1994; Isaac 1995). Under the Royal Proclamation, the bulk of Ontario, excluding the Hudson Bay territory was reserved for Aboriginal peoples as ‘Indian’ lands (Bartlett 1990:52) (Figure 1 – The Royal Proclamation line, 1763). Subsequent treaties sought to make accommodations with Aboriginal peoples for access to their lands. The Robinson Treaties set aside reserves for ‘residence and cultivation’ clearly indicating a preference that Aboriginal people become settled and take up a farming culture. However, as Bartlett states, reserves were not intended to deprive Aboriginal people of their traditional means of sustenance, but as an inducement to developing a settled and civilized lifestyle (1988:19-20). Treaty promises included guarantees of hunting rights on all ceded territory, providing little force to this preference. This is the case in 91% of reserve lands in Ontario (Bartlett 1988:148).
Figure 1 – The Royal Proclamation Line, 1763

It was also recognized that reserved lands were exclusively for the Aboriginal signatories, “for their own use and benefit” including the “sole use and benefit [of] any mineral or other valuable productions” on the reserves (Bartlett 1990:107). This understanding is a significant marker for understanding early thought regarding Aboriginal interests and rights in lands.

Regardless of this point, the prevailing view by non-aboriginal people in this time frame was that Aboriginal people and their life ways were inferior to European ways, and that action was needed in order to protect and improve the ‘Indian’ condition (Tobias 1991:128; Ratkoff-Rojnoff 1980a:9-12). This concept became an important part of the ‘civilizing’ mission. The notion of protection and assistance began with the reserve system and developmental aid that was extended to Aboriginal communities through training in European skills (Milloy 1991:145). *An Act for the Protection of the Lands and Property of Indians in Lower Canada (10 Aug, 1850)*, (otherwise known as *the Indian Protection Act*), extended that protection, legislating the protection of ‘Indian’ reserve lands from trespass by non-Indians (Tobias 1991:129). Since this act provided that non-Indians were not permitted to reside on reserve, it meant that control of the reserve environment could be managed, to some degree, from the outside. Thus, the identification of who qualified as an ‘Indian’ suddenly had greater importance.

While the treaties opened up large tracts of land for non-aboriginal use and control, they did not directly interfere with the Aboriginal way of life, seeking to contain Aboriginal habitation to a smaller geographic area. However, this was seen as a natural part of cultural improvement. Settlement was considered to be in their best interest, and reserve lands were thought to be areas where Aboriginal people could be protected from the harmful influences of European culture. However, in
association with the civilizing mission, reserves provided a central location where Aboriginal people could be ‘assisted’ with religious and other training to allow them to ease into a ‘civilized’ way of life. Thus, the treaties became vehicles for this mission (Milloy 1991).

Unfortunately, promises that were extended regarding Aboriginal rights to hunt and fish on the whole of the ceded territory were not effective. Little was done to protect Aboriginal interests in the ceded territory. Rather, these lands were opened up for development and settlement. Naturally, this had an impact on Aboriginal interests. Non-aboriginal hunting and development (settlements, logging, mining, etc…) reduced habitat, and caused significant reductions in game and other food sources. Also, the sale of lands to third parties reduced the areas that people could enter. As Brock states, “the absence of a significant body of jurisprudence in the nineteenth century of Aboriginal rights and title attests to a form of benign neglect or disregard by colonial authorities (2000:3).

Métis people were not explicitly included in the Robinson Treaties, but were not explicitly excluded either. Rather, the Indian Protection Act, 1850 (13 & 14 Victoria, Ch. 74) defined an ‘Indian’ as including ‘all persons intermarried with [Indians] and residing among them’ (McNab 1999:31). Thus, ‘Indianness’ was circumscribed, not by ‘blood’, but by community and lifestyle. Surtees states that, for a time, some Métis were included in the Robinson Treaties’ annuity payment lists (1994:107). Once again, this illustrates only a superficial involvement in internal Aboriginal community matters. For the most part, people of mixed blood were still considered Aboriginal if they continued to practice an Aboriginal way of life.

However, as early as 1857, the Gradual Civilization Act set about to introduce Aboriginal people to the concept of individualized property in an effort to encourage
their evolution towards a civilized and settled existence. This Act provided that, where Aboriginal people who were deemed of good moral character, debt free, and educated could apply for enfranchisement whereby ‘he’ would be granted 20 hectares of land alienated from reserve lands. This piece of legislation clearly links the idea of identification with that of land rights. If Aboriginal people could be persuaded to give up their status as ‘Indians’ and to take up European status with the concurrent systems of land ownership and tenure, then their ‘wandering’ ways would be eliminated, and their lands would be freed of any encumbrance. The granting of lands from reserve properties was thought to be a key in the dissolution of reserve communities through the assimilation and eventual elimination of Aboriginal communities, leading to the gradual erosion of reserve lands ‘20 hectares at a time’ (Milloy 1991:146-8).

In this context, the protections that were offered to people with ‘Indian’ status were seen as an encumbrance or disability offered only until such time as the Aboriginal people were ready to become members of a civilized society. While there was no explicit engagement in defining Aboriginal peoples in an exclusionary manner at this time, there was a sense that a ‘civilized’ Indian could lay down the burden of Indianness, and become a fully functioning member of society. Enfranchisement then, meant the removal of any unwanted distinctions or disabilities that were attached to ‘Indian’ status for their own protection (Bartlett 1980:12).

The Constitution Act 1867 was a fundamental move that drastically affected Aboriginal interests in their traditional lands. The Act designated the responsibility for ‘Indians’ and lands reserved for ‘Indians’ to the Federal government. In addition, section 109 of the Act awarded ownership of land and resources to the Provincial governments (O’Reilly 1988; Bartlett 1990; Wagner 1991; Imai 1993; Surtees 1994;
Isaac 1995; Dickason 1997). Thus, reserve lands came under Federal jurisdiction, while all other ceded lands (those currently viewed as Provincial territories) became the property and jurisdiction of the Provinces. In addition, section 109 provided for the interest of the Crown in Crown lands, mines, minerals, or royalties stating that they belong to the Provinces but are subject to existing trusts and interests (O’Reilly 1988:40). Sections 92(5) and 92(13) awarded Provincial governments the authority to legislate concerning management and sale of public lands and resources (Hessing & Howlett 1997:54). Also, section 88 made Provincial laws applicable to Aboriginal peoples. Thus, legislation regulating resource use on Provincial Crown lands impeded Aboriginal access to off-reserve resources regardless of the promises provided in the Robinson Treaties (Sampson 1992:12). It is worthy of note that neither government was assigned responsibility over Aboriginal use of natural resources (Wagner 1991:24). This set the stage for Provincial control of Aboriginal lands, and the gradual degradation of land and resource rights (Sampson 1992:12).

The provisions of Treaty 3 made specific statements regarding Aboriginal rights to their lands and resources. Firstly, reserve locations were to be chosen by the Aboriginal peoples themselves, and then confirmed by the Federal government (Surtees 1994:107). In addition to this point, the treaty stipulated that all reserve resources - including precious minerals - were for the benefit of the Aboriginal signatories (Bartlett 1990:108). This point was confirmed by Ontario in 1902 (Surtees 1994:108). Another provision stipulated by this treaty was that the Ojibwa were to retain their right to “pursue their avocations of hunting and fishing on the lands which they had ceded” (McNab 1983:147). However, these points would later be challenged. As a point of interest, Ojibwa lands were not yet seen to be part of Ontario at the time of the signing of Treaty 3 in 1873 (McNab 1983, 1999). Rather,
they were part of the Hudson Bay Territory lands, acquired by Canada in 1870, and whose jurisdiction remained contested until the 1889 St. Catherine’s Milling court decision (see below). Thus, while the Province of Ontario was kept informed of the treaty making process they did not actually participate in the drafting of the treaty (McNab 1999:79). However, this fact did have relevance for subsequent developments.

A further significant aspect of Treaty 3 was its inclusion of local Métis peoples. There were several mixed blood families living in the Ojibwa communities at the signing of the treaty. Alexander Morris, the Crown negotiator, was asked to include them. In Morris’s official statement on Treaty 3, October 14, 1873, he reports that he told the Ojibwa that “the treaty was not for whites, but I would recommend that those families should be permitted the option of taking either status as Indians or whites, but that they could not take both” (McNab 1999:29). Upon his recommendation a special negotiating team was sent to treat with Métis residents. This statement, and the separate negotiations, indicates a movement towards a narrowing of definition. However, their inclusion still recognizes the community’s and individual’s right to choose a particular identification.

The Half-breed adhesion to Treaty 3 was signed in 1875, stipulating reserve allotments and the same resource rights as the rest of Treaty 3. Furthermore, their right to hunt and fish off-reserve continued to exist including “hunting, fishing, trapping, gathering and harvesting wild rice and other products” (McNab 1999:30). Treaty 3 states that, “whereas the Half-breeds above described, by virtue of their ‘Indian blood’, claim a certain interest or title in the lands or territories in the vicinity of Rainy Lake or Rainy River, for the commutation or surrender of which claims they ask compensation from the government” (McNab 1999:30). As McNab states, this
statement affirmed the Aboriginal and treaty rights of Métis people. However, this approach was not to continue. Treaty 3 was, until recently, the only treaty to formally include Métis people and to recognize their interest in lands (McNab 1999).

The subsequent years reflected a narrowing of attitudes towards people of mixed ancestry, and a hardening of attitudes towards Aboriginal peoples’ interests (Boisvert & Turnbull 1985). By 1874, enfranchisement policy was formalized, and made mandatory. Treaty 5 (1875), and Treaty 9 and its adhesions (1905 and 1929), (Figure 2 – Major Canadian Treaties) provided nearly identical rights to those provided for in Treaty 3 (Bartlett 1990:107; RCNE 1978:19). However, there were no Métis inclusions. While Treaty 3 Métis had recognition as ‘Indian’ people with defined sets of rights, Treaty 5 and 9 Métis were seen to have none. Furthermore, Métis who had previously been included in Treaty 3 were offered script in an attempt to remove them from treaty clearly marking a transition in the governments approach to Aboriginal identification (Boisvert & Turnbull 1985).

Thus, in the twenty-five years from 1850 to 1875 the approach to Aboriginal identification had been formalized. In 1850, Aboriginal people were those who lived in Aboriginal communities and were recognized by others as being part of that community. In 1873 (Treaty 3), Aboriginal peoples of mixed ancestry could still be recognized as ‘Indian’, but also had the choice to be recognized as ‘white’ with full citizenship rights as Canadian citizens. And by 1875 (Treaty 5), people of mixed blood were no longer recognized as being ‘Indian’, or having a valid interest in lands. The first comprehensive Indian Act in 1874 merely consolidated past legislation (Bartlett 1980; 1990). However, it provided a consolidated reference to the extensive control of reserve lands and Aboriginal peoples that had previously been established (Milloy 1991). Under this act, reserves were surveyed into lots that were then
Figure 2 – Major Canadian Treaties

assigned to qualified ‘Indians’ through the assignment of a ‘location ticket’. After a probation period, or through the acquisition of a suitable level of education (degree of law, medicine, clergy, etc…), the qualified ‘Indian’ was enfranchised and granted full ownership of the lands defined through his location ticket (Tobias 1991). In this way, the alienation of land from reserve territories was formalized (Tobias 1991). This act also legislated an attack on the sexual, marriage, and divorce mores of Aboriginal communities because of the belief that these practices were interfering with the necessary task of converting the ‘Indians’ to Christianity and a civilized existence (Tobias 1991).

This act also formally barred settlement by non-Indians on reserve lands and provided for their expulsion. Thus, Métis or ‘non-status Indian’ people residing with their families on reserve were no longer legally allowed to do so. Surrenders of lands could be made to the Crown through the assent of the majority of male members of the band. Extensive powers to manage, dispose of, and protect reserves were vested in the minister. These provisions did not stop the disposition of reserve lands, however. Rather, those lands described as being in excess of Aboriginal needs by European standards, were readily disposed of when their presence conflicted with settler interests (Bartlett 1990).
Beginning in 1879, an additional series of changes to the *Indian Act* further extended the powers of the Crown agent to manage reserve lands. The first of these granted the power to allot reserve land to the superintendent general (Tobias 1991). Aboriginal leaders had been loath to divide up reserve lands in the European fashion. This legislation allowed the Superintendent general the power to divide up the reserve territories, and assign the areas to individual Aboriginal people. This power was extended in 1884 and 1894. These *Indian Act* revisions also allowed the superintendent general to lease reserve lands without surrender or band authorization (Tobias 1991).

**1889 – 1951: The Negation of Aboriginal Authority and the Advancement of Provincial Authority**

The previous period saw increasing intrusion into Aboriginal authority. However, the *St. Catharine’s Milling court case, 1889*, while reflecting the ideas already taking place, was to have tremendous consequences for Aboriginal authority (McNab 1983; Bartlett 1990; Hall 1991; RCAP 1994; Brock 2000). This case became the leading case on lands and resources for the next century, and set the scale for the development of resource policy until the 1970s (Brock 2000). The case challenged Federal control of the Hudson Bay Company (HBC) lands, including Treaty 3, 5 and 9 lands, which had recently been acquired by Canada in 1870. The case dealt with several critical assertions that had bearing on Aboriginal rights relative to their lands and resources, and has been referred to as Canada’s first Aboriginal rights case (RCAP 1994).

The Federal argument hinged on the fact that the Royal Proclamation had recognized an Aboriginal interest in lands that could be characterized as ‘ownership’
(Hall 1991). They argued that full powers of ownership had passed, with the signing of the relevant treaties, from the Ojibwa to the Federal government, who had paid for the lands in question, with the signing of the treaty. Thus, while the Federal government recognized that Aboriginal people ‘had’ owned their lands, they argued that that ownership was now vested in the Federal government.

The Provincial government however, argued that ‘the dominion’ was a confederation of Provinces that did not supersede the powers that each Province had exercised before 1867 and thus did not have the authority to dictate Provincial authority (Hall 1991). In addition, in keeping with the Social Darwinist concepts of the time, the Province argued that Aboriginal peoples at time of contact were in a primitive state of development (Hall 1991; Usher et al. 1992). As Hall puts it, the Provincial argument claimed that Aboriginal peoples “were incapable of holding any sort of legal property rights in the land where they and their ancestors before them lived, because they had no laws or binding rules of conduct among themselves” (Hall 1991:275). Furthermore, they argued that, based on the notion of Christian right over the pagan nations, even if any possession and law had existed, it had been “subjugated once their homelands were discovered by agents representing a higher law vested in the authority of a Christian monarch” (Hall 1991).

This devaluation of Aboriginal life ways had much to do with the evolution of events. As Usher et al. state, “the prevailing settler ideology, with its social Darwinist tenets and deeply embedded notions of progress based on economic development, viewed native people not only as a physical impediment to white settlement, but also as ‘utter savages’” (1992:121). This vision drastically influenced policy directions. The obligations to treat with Aboriginal peoples inherent in the Royal Proclamation were seen to be perfunctory. Aboriginal and Treaty rights were increasingly seen
through a restrictive lens. The effect was “to bring both reserve land entitlements and resource rights on Crown lands under intensifying assault from all levels of government from the late nineteenth century onwards” (Usher, et al… 1992:121).

Thus, it was not Aboriginal right or authority that was at stake in the *St. Catharine’s Milling Case*. Rather, the case sought to determine which level of government could legally claim authority over the newly acquired lands, and thus the right to collect taxes and revenue from resource development on those lands (Hall 1991).

It was determined that the Province owned, and had powers over, the ceded territory, while Federal powers were restricted to reserve lands only. At the same time, Aboriginal title was determined to be of a usufructory nature only, and dependent on the good will of the sovereign (Hall 1991). The *St. Catharine’s Milling* decision eventually led to the 1891 (1894) *Act for the settlement of certain questions between the governments of Canada and Ontario respecting Indian lands* (Bartlett 1990). This agreement stipulated that, because of Ontario’s ownership of lands within its bounds as prescribed in section 109 of the *Constitution Act*, Ontario’s concurrence was required in order to obtain consent for reserve locations in order to guarantee any interest that the Province may have in the lands. It should be noted that those interests included hydroelectric potential, thus influencing Aboriginal access to river locations, and water resources. Since promises were made at the signing of Treaty 3 that the Ojibwa would choose reserve locations, this agreement directly impeded the authority of Aboriginal peoples to select lands based on their own interests (Bartlett 1990).

This point is further supported by the 1899 decision of the Ontario Chancery to recognize an underlying interest of the Province in a Treaty 3 reserve (Hall 1991). This recognition suggested that the precious metals in Ontario, under section 109 of
the *Constitution Act 1867*, had passed to the Province at that time. Since Treaty 3 was not signed until 1873, any mineral resources belonged fully to the Province and could not have been set apart as part of the reserve (Bartlett 1990).

Based on this recognition, the Federal government and Ontario entered into a new agreement - the *1924 Canada Ontario Indian Lands Agreement (1924)*. While this agreement did recognize reserve lands as granting “full and entire possession, use, benefit, and advantage” (Bartlett 1990:74) to the Aboriginal peoples, it also defined Aboriginal title as a “personal or usufructory right dependent on good will of sovereign” (Bartlett 1990:74-5). The purpose of the agreement was to accommodate the Province’s claim to a share in reserve lands and resources. It suggested that while the treaties had recognized Aboriginal interest in natural resources, and while the *BNA* had entrenched Federal administration, that administration was subject to Provincial powers and interests over lands and resources. Thus, even reserve lands were not free from Provincial intrusion.

The implication of this agreement was that, while the Federal government had the authority to administer the resources on reserve lands on behalf of ‘ Indians’, it could do so only within Provincial guidelines (i.e. application of Provincial laws regarding licensing, permits, etc.… ) (Bartlett 1990). In addition, the agreement declared that the Province was entitled to one half of any “consideration payable with respect to mineral disposition on reserves set apart by treaty or agreement” (Bartlett 1990:110). The only exception to this decision was Treaty 3 because of a 1902 agreement by Ontario that, for the purposes of policy, precious metals would be seen as part of Treaty 3 reserves (Bartlett 1990). Thus, all other treaty lands within Ontario could no longer claim full ownership of lands. Rather, they were conditional rights subject to Provincial interests. A final aspect of the 1924 agreement provided
that reserve lands would revert to Provincial control upon the extinction of the band. This idea accommodates the belief that, in time, Aboriginal people would be assimilated or would expire.

Changes in the 1874 Indian Act had kept pace with these developments. By the 1890s, the superintendent general had power to lease land for revenue purposes (Tobias 1991). This included licenses or permits to harvest timber (Bartlett 1990). In 1895, the Indian Act allowed any ‘Indian’ to apply for the lands upon which he lived to be leased, regardless of band authorization to do so. This moved the allotted lands further into the realm of ‘private’ ownership (Bartlett 1990; Tobias 1991). Finally, the 1898 Indian Act was amended to allow for the survey of reserves without the consent of the Aboriginal nations (Telford 1998). This allowed for exploration to locate resources of interest for development purposes, regardless of Aboriginals interests in the matter. By 1918, the superintendent general was granted the authority to lease uncultivated reserve lands without surrender (Bartlett 1990). Thus, by 1924, Federal and Provincial authority over Aboriginal lands and resources was nearly complete.

By this time, it became apparent that the reserve system, and the many coercive attempts to encourage the civilization of Aboriginal peoples, was not working. As Cottam states,

by 1939, the non-disappearing Indian was being recognized by the assimilative forces, gathered at a conference in Toronto on the eve of the Second World War. There, to an audience that included Native leaders… government officials, educators and others concerned with overseeing their Native wards, confessed at last their failure to turn Native people into whites (1992/3:202).

This failure was seen, at least in part, to be the result of the protections that the reserve system afforded. As a result, the early 1900s were characterized by an
increasing move towards the removal of those protections, and an increase in the direction of exclusions and restrictions (Tobias 1991). Throughout this period Aboriginal people had almost no authority or control over matters that directly influenced their lives. Aboriginal life ways were severely circumscribed by Provincial and Federal legislation and policies.

The assault on Aboriginal access to resources, however, did not stop there. The 1930 changes to the *BNA (1867)*, with inclusion of the Prairie Provinces, introduced some new ideas into Aboriginal rights discourses. This legislative change introduced the notion that *Aboriginal right* to hunt and fish was *for food* (Wagner 1991:24). Treaties before this time made no mention of restrictions. Rather, Aboriginal people had always traded resource commodities. This change became a profound point of contention throughout the 1900s.

The power was so stacked against Aboriginal communities that a 1933 policy within the Department of Indian Affairs dictated, “Indian complaints and enquiries had to be routed through the [Indian] agent” (Getty & Lussier 1983:169). Aboriginal communities complained that, “if we do not get a square deal from the agent how can we report it if we have no recourse except to the agent himself?” (Getty & Lussier 1983:169).

The movement towards restrictions in identification as well as resource rights, access, and control culminated in the *Indian Act of 1951*. While the aim of this Act was to meet the needs of Aboriginal communities, it conformed in structure to the framework of assimilation implicit in earlier policy (Smith 1992). The primary component of the *1951 Indian Act* was the application of Provincial laws on reserve lands (Bartlett 1990; Tobias 1991; Usher et al. 1992). Prior to this time, reserve lands were seen, at least to some extent, as zones where Aboriginal people had free access
to resources, even if the lands were largely controlled from outside. Through these provisions it was clear that hunting, trapping, and fishing rights were no longer seen as fundamental guarantees of Native livelihood. Rather, they were seen as a proprietary right at the pleasure of the Crown. Fish and wildlife became common property resources regulated by the state for all of its citizens, while many aspects of native harvesting were criminalized (Usher et al. 1992). Aboriginal hunters were required to apply for licenses to harvest just like other users. As McNab states “Aboriginal and treaty rights have been denied or rendered valueless because of settlement of the frontier and controlling legislation, regulation or enforcement of existing laws or by adverse court judgements” (McNab 1992:29). In this way, Provincial control over reserve lands drastically affected the lives of Aboriginal peoples.

This Act also attacked Aboriginal identification criteria. At this time, the lists from the various departments from across the country were consolidated. Anyone on the ‘Indian’ register that did not fit the newly imposed strict criteria was withdrawn from the list. Many previously ‘status’ Aboriginal peoples were excluded at this time, drastically increasing the numbers of un-recognized (Métis or ‘non-status Indian’) Aboriginal peoples. Rather than focusing on the characteristics a person needed for ‘inclusion’ in the register, the new criteria focused primarily on exclusions. The Act stated that,

People excluded from Indian register are: People whose mother and father’s mother are not Indians; a woman married to a non-Indian; an illegitimate child born to an Indian woman when the Registrar is ‘satisfied that the father of the child was not an Indian and the Registrar has declared that the child is not entitled to be registered.

An Act Respecting Indians (20 June, 1951).
These criteria formally attacked the notion of mixed ancestry. It required any person to have Aboriginal parentage on both sides of their family tree. It was not enough to be the child of an Aboriginal person. The other parent must also have been registered with Aboriginal parentage as well. Enfranchisement of qualified members was also given further incentive with the granting of a share of band capital and revenue, plus a twenty years share of treaty money to any ‘Indian’ who became enfranchised.

Clearly, at this point in history Aboriginal people were the least in control of their lives. There was a consolidation of State control over Aboriginal peoples, and their lands and resources, including on and off reserve lands. Yet the post-WWII period and the attitudes of equality being embraced in the 1960s were a double-edged sword. Increasingly, Aboriginal people co-ordinated protests and activities to bring their issues into public awareness. Part of the 1951 Act eliminated the section which prevented Aboriginal People from hiring a lawyer, making it possible to file suit against the crown. Also, in 1954, Ontario extended the franchise to Aboriginal peoples (RCAP 1994). These amendments planted a seed of change that eventually had a significant impact on Aboriginal resource issues.

1950 – 1980: The Period of Social Advocacy and Court Action

The 1950s and 1960s were characterized by a movement towards Provincial servicing of Aboriginal needs. The justification for this move was that many of the services needed by Aboriginal residents of the Province were also offered to other non-aboriginal residents (blind persons allowance, old age pension, health care, housing, social services, education, child welfare, etc…). Provincial agreement was obtained in return for Federal cost-sharing, or special reimbursement, for these programs (MNR 1981; RCAP 1994). It was argued that there was a redundancy of
servicing costs inherent in separate service provisions, and that consolidation would ensure an equality of servicing (MNR 1981; Angus 1991). As reasonable as this may seem, many people questioned the Federal government’s motives suggesting that it was part of an overall move to withdraw from their responsibilities towards Aboriginal peoples (Tobias 1991; Angus 1991). It would seem that this move foreshadowed the developments yet to come.

In 1969 Trudeau’s *White Paper* proposed abolishing the ‘Indian’ department entirely, and special status along with it (Tobias 1991). The paper argued that the exclusionary nature of ‘Indian’ status was itself racist, and contrary to the doctrines of equality being embraced by Canada at the time. Yet the effects of its recommendations would have been far from equalizing. Aboriginal peoples stated that eliminating their special status would mean entrenching the *status quo* with Aboriginal peoples on the lowest rungs of Canadian society, and completely eradicating their rights to land and resources based on historical and legal precedent. Although the *1969 White Paper* is generally recognized as the impetus for Aboriginal peoples’ resistance, this resistance was nothing new. Yet the shock of the *White Paper*, and the publicity created around the very public displays of anger and resistance by Aboriginal people, dramatically raised Aboriginal issues in the minds of the public. This dramatic effect may well have been the crucible of change.

The 1960s and 1970s was characterized by a greater attention to Aboriginal issues in Ontario (Sampson 1992; RCAP 1994). The Province began to negotiate on Aboriginal resource disputes, and undertook a consultative approach with reserve communities (RCAP 1994). In 1972, in response to the Royal Commission on the Northern Environment (RCNE) recommendations, the Province established the Ontario Tripartite Process (OTP). This group was a joint commission between the
Federal and Provincial governments, and Aboriginal representation. Furthermore, the Indian Commission of Ontario (ICO) was formed on September 28, 1978 to ‘function as a facilitator, conciliator, and mediator’ (Sampson 1992:20; OC 2731/80). Part of this was done through working groups that addressed specific issues (RCAP 1994). The Wild Rice Working Group was established at this time. While these initiatives were an obvious effort on the part of the Province to more fully address Aboriginal issues, the efforts represented by the OTP and ICO were limited by the Province’s refusal to consider formative change wherever Aboriginal and Provincial economic interests conflicted (RCAP 1994).

National scale politics also influenced Ontario policy development relative to Aboriginal peoples. For instance, the Calder case (1973) prompted significant changes to Federal and Provincial policy. The Calder case found that Aboriginal title continued to exist, unless validly extinguished (Isaac 1995). For the first time, Canadian law recognized that Aboriginal title predated British law (Brock 2000). The Calder decision established that,

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notwithstanding either the course of Canadian history as understood by the
descendants of the settlers, immigrants, and colonists or legal precedent derived
from British colonial law, the Canadian state was required to recognize the self-
evident yet hitherto ignored fact that Aboriginal peoples lived in societies prior to
the arrival of Europeans and that, as a consequence, there was a likelihood that
their institutions, tenures, and rights to government remained in place despite the
presumption of Canadian sovereignty  (Asch 1997:ix; see also Hall 1991).
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This decision created a tension that continues to have an effect today.

Later that year, in response to the Calder case, the Federal government established a formal claims policy. Ontario responded by seeking to co-ordinate Aboriginal policy in its various departments. In 1976, the Province assigned a Minister without portfolio to be responsible for this co-ordination (Sampson 1992:18-19). In 1977, indicating the close link in the Provincial mind between resource and
Aboriginal concerns, this Minister was appointed the Provincial Secretary for Resource Development, keeping his duties with respect to native affairs. In 1978, the Office of Indian Resource Policy was established (RCAP 1994:16), and in the same year, the Province established a ‘leniency’ policy ‘for Native Persons Violations’ which sought to accommodate the interests of status ‘Indians’ relative to natural resources (RCAP 1994:16).

However, Provincial attitudes to Aboriginal resource needs continued to flow from the perspective that resources belonged to the Province. This point was clearly stated at the RCNE hearings in 1977 where the Ontario government stated its position that the natural resources of the Province “belong to, and will be developed for all of the people of Ontario, including the Native people” (RCNE 1978:20). Aboriginal people, however, argued that the Province failed to recognize their unique relationship to the land, or the interrelationships between different resource uses (RCNE 1978:20). The power differential was enormous. While the Ministry of Natural Resources (MNR) was responsible for the management of Crown lands in Ontario, it was “also responsible for determining Ontario’s response to Indian requests for Indian access to natural resources” (Spiegel 1988:104). Ontario statements in 1980 affirmed the Province’s intention to continue to limit Aboriginal resource access through legislation. Ontario held to the position that unrestricted use of resources by any one group of peoples would be tantamount to anarchy, and that they would continue to retain final authority over resource uses regardless of Aboriginal claims regarding the infringement of treaty promises (MNR 1980a).

OMNSIA requests for negotiations or special consideration were met with a clear statement that ‘Non-status Indian’ and Métis people were to be given no special consideration based on their ancestry (MNR 1978a). Rather, they were recognized
as holding a status no different from that of other Canadians. While the Government of Canada had assumed special responsibilities for education, health, welfare, and economic development for status Indians, the non-status and Métis people had to rely on the same agencies as other Canadians for these services. The British North America Act assigned to the Dominion Government responsibility for ‘Indians’ and Lands reserved for the ‘Indians’, but gave no clearer specification of those terms. ‘Non-status Indians’ and Métis argued that the government did not have the constitutional authority to limit these responsibilities by restricting the meaning of ‘Indian’ only to those defined in the Indian Act. This question of status and membership in the status group was therefore an important element in the consideration of native claims and grievances (RRC 1975).

In spite of these facts, the Calder case began a process of recognition that allowed for a movement towards Aboriginal involvement in defining the conditions of their lives. The James Bay Agreement signed two years later made provisions for self-management and community governance of lands within the agreement (Bartlett 1990). Two years after that, Sandra Lovelace brought her complaint regarding sex discrimination in the existing 1951 and previous Indian Acts, which excluded Aboriginal women who married non-aboriginal men from the register, to the UN Human Rights Committee. It was not until 1985 that this matter was addressed through the passage of Bill C-31, which provided for the reinstatement of women who had lost their status unwillingly through this component of the enfranchisement provisions. In 1982 revisions to the Constitution Act provided that 1) existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed; and 2) that Aboriginal peoples (of Canada) are defined as including ‘Indian’, Inuit and Métis. This monumental change was a stunning victory
for Aboriginal peoples which has spurred further favourable court case decisions which have drastically altered Aboriginal rights in post-1982 Ontario (see Guerin 1984; Sparrow 1990; Delgamuukw 1997; and Marshall 1999).
CHAPTER 3: MANOMIN/WILD RICE: USE AND POLICY

Wild rice legislation and policy is an extension of the larger context of Aboriginal resource policy described in the previous chapter. This chapter will look specifically at wild rice as a resource, and provide a more focused contextual history for the Mud Lake dispute. Not all Aboriginal people are familiar with wild rice. Nor has it been relevant to the history of all Aboriginal nations. However, for those who have, Manomin (wild rice) is a critical component of their history, culture, and identity. It is bound up with a whole way of being. This chapter will explore the plant in historical context, Aboriginal peoples and their cultural relationship with Manomin, and the development of the Wild Rice Harvesting Act (WRHA). This chapter will also explore the legal basis of Aboriginal water and water resource rights, and provide an example through the Treaty 3 headland-to-headland and wild rice debates. In this way, the context of State-Aboriginal relations over Manomin/wild rice prior to the Mud Lake conflict will be contextualized.

What is Wild Rice?

Wild rice has been known to Aboriginal peoples as Manomin – gift of the Creator. While there are a number of variants of wild rice, the scientific term for the Mud Lake variety is Zizania aquatica. It is a self-seeding, annual aquatic plant unique to North America. It grows in flowing water, predominantly in sandy soils, at the banks of rivers, and sometimes at the openings of lakes where there is moving water to transport nutrients (Dore 1969; Kuhnlein and Turner 1991). The plant is sensitive to water depth, especially during the critical floating leaf stage, and so will only grow where water levels are within a suitable range of depth (Thurston 1992). At optimum sites, it forms dense, continuous beds. The seeds do not ripen all at once
but over a period of days. As it ripens it ‘shatters’ - falls from the plant - and drops to the water bottom where it re-seeds for the coming years (Dore 1969; Kuhnlein and Turner 1991). Not all of the seeds germinate in the same year, providing some regenerative potential in years of ecological instability. The plant has a long, narrow shape that is heaviest at one end. This facilitates its rapid movement to the river bottom where it penetrates the muddy soil. The end has barbs that assist the seed to hold on to the river soils, and prevent its being washed away (Thurston 1992).

Despite its popular name, wild rice is not actually a ‘rice’. In reality, it is a tall, annual grass providing a grain, or seed which provides a source of protein, fat, carbohydrates, vitamins, and minerals (Kuhnlein and Turner 1991). Its ecological habitat extends from Manitoba to New Brunswick, and has been harvested by Aboriginal communities in eastern North America since prehistoric times (Moodie 1991; Kuhnlein and Turner 1991; Ratkoff-Rojnoff 1980). Archaeological evidence establishes the use of this plant by Aboriginal people as long as 2500 years ago (Ratkoff-Rojnoff 1980). Vennum notes that early explorers referred to wild rice by a variety of names including avoine sauvage (wild oats), water oats, water rice, riz Canadien, and riz sauvage (wild rice) (1988). It is this latter name that came to be widely used1. *Manomin* has been recognized as an important food for many nations including Cree, Ojibwa, Assinboin, Potawatomi, Monomini, Ottawa, Huron, Iroquois

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1 It should be noted here that there is a tension inherent in the naming process that makes writing about *Manomin*/wild rice a difficult challenge. The name *Manomin* does not refer to the plant merely as a natural resource, but as a gift of Manitou – a gift of the Creator - for the well being of the people. In contrast, the popular term ‘wild rice’ connotes a natural resource – a much more restricted concept. Because this term is pervasive in the terminology of the government, it has come to be used, to a large degree by Aboriginal peoples as well – at least when in conversation with government representatives. Thus the challenge exists to find a suitable way of expressing the meaning of this plant suitable to the context of the discussion. Where ‘wild rice’ has been used in a quote I have left it as spoken. However, I feel obliged to remind the reader of the different meanings inherent to the different speakers. Thus, I have made the effort to use *Manomin* where appropriate, and ‘wild rice’ only when the discussion refers explicitly to the plant as a natural resource.
and Malecite (Kuhnlein and Turner 1991). Its importance was even greater as a trade good (Peers 1996; Moodie 1991; Kuhnlein and Turner 1991; Ratkoff-Rojnoff 1980). Historically, it has been traded as far as British Columbia (Kuhnlein and Turner 1991).

It has also been recognized that Aboriginal groups have engaged in the management of Manomin, as well as the propagation and extension of the geographic range of the plant (Peers 1996; Moodie 1991; Ratkoff-Rojnoff 1980). Aboriginal peoples were known to re-seed thinning locations in existing stands, to manage their use based on production levels, and to propagate new stands where conditions allowed. A study by Moodie explores the history of Aboriginal management of Manomin. He refers to this process as incipient agriculture (Moodie 1991). Pollen sampling corroborates a movement of Manomin over a period of years. It was found to be present at Rice Lake, Ontario around 4,000 years B.P., and at Rice Lake, Minnesota from about 2000 B.P. (Ratkoff-Rojnoff 1980 citing McAndrews 1970). Moodie argues that the existing range of Manomin is due to this process of intentional propagation, thus challenging the notion that Manomin is an uncultivated plant, and that Aboriginal people are merely opportunistic users of this resource (Moodie 1991).

**Aboriginal culture and Manomin**

Manomin is easily stored, thus presenting itself as an invaluable commodity for trade, and a critical food in times of scarcity. In the historical record, Jesuits and explorers are often found crediting Manomin with ‘staving off starvation’ (Avery and Pawlick 1979; Jenness 1977). Moodie quotes an ‘Indian’ agent in 1900 writing “they depend upon [Manomin] for winter use and also as a means of obtaining such articles as they need…” (1991, quoting Jenks). Vennum (1988) and Peers (1996) both note
that *Manomin* played a key role in an overall subsistence strategy. Clearly then, *Manomin* had a significant role for Aboriginal communities, both as a product of use, and as a commodity of trade. A 1979 submission by the Grassy Narrows community states that,

> the harvesting of wild rice is today, and has historically been one of the major, if not the major ingredient, in the culture of the Ojibwa of North-western Ontario, and the Islington Band in particular. A survey of income sources of ‘Indian’ people in the Treaty 3 area, covering the years 1973 and 1974 indicated that wild rice was the largest contributor of income (Grassy Narrows Mediation Meetings and Presentations 1979).

Thus, *Manomin* continues to have a significant economic role in contemporary Aboriginal communities.

Far more than this, *Manomin* has a role in maintaining a link to the history of the people. Contemporary Aboriginal peoples tell stories of the role of *Manomin* in their communities for generations (Darwell 1998; Cizek 1993; Richardson 1993; Vennum 1988; DIAND 1980; Ratkoff-Rojnoff 1980; Avery and Pawlick 1979). Children harvest in lakes seeded by their grandparents and great grandparents; they learn how to harvest and process *Manomin* from their elders; and they continue to share in the communal practice of protecting, nurturing and harvesting the plant. In fact, the contemporary practice of harvesting mirrors that described in the historical record (Peers 1996; Moodie 1991; Ratkoff-Rojnoff 1980). This illustrates the idea that the harvesting of *Manomin* goes beyond use as a ‘resource’ or ‘commodity’. Rather, it is a ritualized activity learned, taught, and practiced in culturally specified ways.

Academic research notwithstanding, to call *Manomin* a natural resource, or a subsistence food, is a sterile and shallow interpretation of this plant’s role in community life. Rather, to the communities for which *Manomin* is a historical resource, *Manomin* is an annual ritual - part of the participatory life of being and
thinking of oneself as ‘Indian’, or as ‘community’ (Richardson 1993; Thurston 1992; DIAND 1980; Ratkoff-Rojnoff 1980; Avery and Pawlick 1979). For instance, Richardson quotes Joe Pitchenesse of the Wabigoon Lake reserve who states, “people develop a sense of self-worth through the ritual and community involvement during the *Manomin* harvest” (1993:188). Ratkoff-Rojnoff states that *Manomin* is considered to be “a sacred food, to have a unique spiritual significance in that it is… a gift of the Great Spirit to ensure their survival and well being” (1980:79). And Avery and Pawlick state that *Manomin* “is a sacred plant, as central to the ancient Ojibwa religion as bread and wine to Christians… but it is a staple, too, a food that can be stored for years” (1979:33). In fact, *Manomin* nurturing and harvesting are seen as part of the social, spiritual, and cultural cohesion of communities. As Thurston states, “for traditional harvesters, ricing is a kind of spiritual holiday, a time for families and friends to come together (1992:27).

In Aboriginal communities, *Manomin* is subject to a system of Aboriginal management. This process includes a ‘rice boss’ or ‘rice steward’ who monitors the crop and decides when, or if, it is ready to harvest. The steward also decides who should be invited to participate in the harvest so that all community needs are met. The quality of certain beds is considered and, if poor, is left to rest in order to replenish. Thought is also given to other users of *Manomin* such as animals and birds (Richardson 1993). It is an implicit understanding that a portion of the seed will be allowed to fall into the water, or be sowed on the water, for fish and other users, as well as for the regeneration of the plant for the future (Moodie 1991). In this way, there is an implicit recognition of themselves - the Aboriginal users - as members of an ecological community, which includes the *Manomin* itself, and other animal users.
It also implies respect for *Manomin* and its contribution to the well being of the whole ecological environment.

It is important to note that the spiritual and communal importance of *Manomin* is, in part, the reason for its abundance and geographic range. The propagation of *Manomin* has been seen as a natural extension of use, part of the duty of the community to ensure its presence and abundance for future generations. This process includes reseeding older beds that are beginning to be depleted, but also seeding new sites wherever possible. Seed must be sowed in shallow muddy water and is sometimes wrapped, a few seeds at a time, in mud before depositing in the water (Jenness 1977). As Avery and Pawlick quote, “it is related in our birchbark scrolls of our religion that wherever our people travelled, they sowed wild rice” (1979:35). Thus, the presence of *Manomin* over a large range is due to the deliberate propagation of the grain. This is significant in the debate over Aboriginal rights to *Manomin*. As Joe Pitchenesse of the Wabigoon Lake reserve states, “[To allow] individual licensing of lakes with no regard to… the centuries of Aboriginal seeding, harvesting and caring for *Manomin* stands, would not only be a mistake, but an out-and out crime” (Richardson 1993:190).

This cultural and spiritual meaning has a huge significance for identity, self-worth, community relations, ritual, and spiritual relationships to the environment and cultural tradition (Richardson 1993). This spiritual importance is the key to harvesting through the traditional method in contrast with the use of mechanical harvesters (Richardson 1993). The environmental impact of commercial harvesting is hotly debated between traditional users, and advocates of commercial harvesting machines (Thurston 1992). Avery and Pawlick discuss the environmental impacts of commercial harvester use. They argue that it not only reduces the use potential of
Manomin by taking too much, uprooting plants, and leaving not enough seed for regeneration and use by other creatures. However, the critical point they make is that it also harms the continuity of the traditional method, and its cultural and spiritual benefits to the community. It is this loss of cultural and spiritual continuity that is impacted so significantly by commercial operations. Avery and Pawlick state “mechanical harvesting will lead to one operator making the total income of a whole community, translating a few weeks work for a hundred people into a few days work by one” (1979:42). They quote Ojibwa speakers who say, “what we are fighting is not only the loss of income but the soul-destroying effects of unemployment” (Avery and Pawlick 1979:42).

The history of this crop as a staple and trade good, and its importance in community life, is just as valid today as it was two hundred years ago. As Ratkoff-Rojnoff state “today, as [in] the past, it [Manomin] is the symbol of their survival and well-being. It is also their last natural resource. And they are determined to pass on this right which is theirs according to tradition, along with their beliefs, to their children” (1980:78). For years, traditional practice and spiritual expression went underground because of oppression, scorn, and contempt. This has lead to misunderstanding and disrespect on both sides, but especially among decision makers (Ratkoff-Rojnoff, 1980).

The 1970s saw a movement to open up tracts set aside for Aboriginal people to non-aboriginal commercial operations. Aboriginal people view this as an attack on their culture and rights. Avery and Pawlick state “people see their exclusive right to harvest wild rice on ‘Indian’ lands under attack by government and businesses eager to exploit what they now recognize as a crop with great commercial possibilities” (1979:35). Aboriginal peoples, like the Ojibwa of Treaty 3, view the loss of their
exclusive right to Manomin as a loss of tradition - a right founded in religion - part of their heritage (DIAND 1980). It is an annual ritual - significant in a manner far above the provision of a dietary staple. (DIAND 1980).

This challenge to Aboriginal claims of ownership to Manomin is exacerbated by loss of crops and stands due to competing interests such as hydroelectric development. One such loss is cited in a paper titled Claim for damages of wild rice by the Trent Canal, (Musgrave, unknown date). Musgrave noted that the building of the Trent Canal, and subsequent water diversions, effectively destroyed the Manomin in the Peterborough region. He also noted that this loss severely impacted the local Ojibwa communities who maintained a culture heavily influenced by Manomin.

This fact, in combination with the loss of economic opportunity from other resources (fish, game, timber), and the ongoing struggle to prevent commercial users from gaining full and unrestricted access to Manomin - a plant which in many ways is seen as a way of life - has left many Aboriginal communities feeling that this is the last stand - the last resource - their last great hope (Richardson 1993; DIAND 1980; Ratkoff-Rojnoff, 1980; Avery and Pawlick 1979). As Chief Kelley of the Lake of the Woods region states, “Manomin belongs to the Anishinahbaig…[it] is our tradition, our right. It is non-negotiable” (Avery and Pawlick 1979:36).

For those nations and communities who are people of Manomin, rice remains the last best hope for a Native controlled industry - or the last stand against the commodification of a way of life - the last frontier to be defended against exploitation from the outside. Manomin was given along with rules of governance that guaranteed appropriate use of the resource (sharing and continuation of all). It is a part of the people’s history, and a symbol for the definition of identity. It is not conceivable that it would not also be a part of their future. As Marcus Darwell states, the continuing
practice of harvesting *Manomin* is a “conscious exhibition of cultural continuity and a way of ensuring that Aboriginal ideas are remembered and passed on through generations” (Darwell 1998).

**Wild Rice policy and the *Wild Rice Harvesting Act***

The history of non-aboriginal involvement in the wild rice industry began with increasing attention to the resource in the 1930s. At this time, businessmen were purchasing processed rice from Aboriginal communities for sale to interested buyers (Avery and Pawlick 1979). This involvement gradually increased over time. Non-aboriginal businessmen involved themselves with the development of mechanical roasters and wind machines for mechanical processing, and airboats for harvesting (Avery and Pawlick 1979). This development prompted the involvement of the Department of Lands and Forests (later MNR) with the development of a wild rice management program in 1954 (RCAP 1995), and eventually leading to the development of the *Wild Rice Harvesting Act, 1960 (WRHA).*

The *WRHA* was initially promoted as a means of developing a more co-ordinated approach to rice harvesting. At the second reading for the bill which proposed the Act, a Mr. Chapple, the MLA from Fort Williams, expressed grave concerns regarding the licensing of *Manomin*. He stated that it was his belief that it should be reserved for the exclusive use of Aboriginal people, and that they should be allowed to sell this, and other resources, for their own needs. He also expressed concern regarding the authority inherent in the establishment of a licensing system. He stated, “once we license a thing we control it” (JLAO 1960). He was deeply concerned that such provisions were really about opening up the industry to non-aboriginal users. The response by Mr. Spooner, then Minister of Lands and Forests,
assured Mr. Chapple that their only interest was to avoid waste through control features that could ‘manage’ use in a more productive fashion, and to avoid conflict where more than one group was interested in harvesting at a particular site (JLAO, 1960).

Non-Aboriginal people and Aboriginal people from outside of the Treaty 3 area (the largest wild rice producing area in Ontario) had been coming to the area to harvest without consultation with the local Aboriginal peoples (MNR 1979). In the minds of Aboriginal people, wild rice policy began as a means to protect their interests against encroachments (Notske 1994). As Avery and Pawlick state, “Ojibwa leaders attending the meetings which led to the drafting of the Act had understood that the legislation would refer directly to ‘Indian’ pickers’. It did not” (Avery and Pawlick 1979:37-8).

The WRHA was passed in 1960 (S.O. 1960 c131 (545), s.3 (1)). It gave authority to the then Department of Lands and Forests to manage wild rice harvesting, providing for the issuance of harvesting licenses, enforcement and penalties, registration of harvesting areas, and consideration of royalties. The following year, the Act was revised to provide for the establishment of 10 block areas in the Kenora and Dryden areas for the sole use of the local Aboriginal people (RSO 1960, s.4, c. 431 (1467) (Figure 3: Registered Wild Rice Harvesting Areas in North-western Region). Aboriginal peoples interpreted the 10 block areas as recognition of their harvesting rights (Notske 1994; Vennum 1988). Each area was registered to a specific band, and excluded other users, Aboriginal and non-aboriginal alike (MNR 1979). A final revision in 1971 provided for hearings under the Act before issuing or canceling a license (S.O. 1971 c.50 s.88).
Figure 3 - Registered Wild Rice Harvesting Areas in Northwestern Region, Ontario

Outside of the block areas, licenses to harvest and seed new lakes were issued to Ontario citizens. However, the bulk of ricing areas were located within these reserved block areas. By the mid-1970s a business lobby began to argue that the block areas should not be restricted. They argued that many areas within the blocks were being under-utilized, and that this unnecessarily restricted the development of a lucrative business (Notske 1994; Vennum 1988).

In 1977, a Ministry of Natural Resource proposal called for the elimination of the block areas. They recommended instead that the areas commonly harvested by Status ‘Indians’ continue to be reserved for their exclusive use, but that the remainder of these areas be opened up to licensing by other users (MNR 1979). Treaty 3 Aboriginal people were stunned at this change. The proposed new act would have completely undermined the ricing rights achieved through the 1959 WRHA (Venum 1988). They had assumed that the WRHA provided for recognition of their special interests in Manomin. They assumed that it recognized their ownership of Manomin. However, the act did not say, in any manner, that the areas ‘belonged’ to the Aboriginal people. Rather, as with other resources, the Province considered wild rice to be a Provincial resource to be managed for the benefit of all of the people of Ontario.

Many non-aboriginal people joined the significant Aboriginal protests over the ramifications of this proposal. These debates came at a time when a Royal Commission on the Northern Environment (RCNE, or the Hartt Commission), was underway. This commission sought to address the special needs of the areas in Ontario’s north by holding hearings into the needs of local communities, and then making recommendations for action. Aboriginal people brought their concerns regarding the proposed changes to the special hearings that were underway in their
areas. Many Aboriginal communities made emphatic pleas to the chair of the commission, Justice Hartt, to protect their rights to *Manomin* as their sole remaining resource. They feared that they would not be able to compete with the technology that other users had, and that they would loose out on establishing a viable economic base for their communities (RCNE 1979).

An interim report of the *RCNE* in 1978 recommended a five-year moratorium on licenses to non-aboriginals for wild rice harvesting in order to grant the Aboriginal people a buffer in order to develop their own Native wild rice industry (RCNE 1978). It recommended a tripartite working group on wild rice that would include Status ‘Indians’, the Federal government, and the Provincial government, and proposed that the Ontario Métis and Non-Status Indian Association (OMNSIA), and the Ontario Wild Rice Producers Association (OWRPA) be included in discussions because of their common interests in access to the stands.

The OWRPA protested the RCNE report on the grounds that it discriminated against certain individuals based on race (OWRPA 1978). Furthermore, an internal MNR document argued that Status ‘Indians’ had had preferential treatment with the 10 block areas since the *WRHA* was implemented. They argued that the concerns expressed to the Hartt commission were exaggerated, and considering the nature of the hearings, had not been opened to proper verification (MNR 1978b). They proposed that under a five-year interim policy, Status ‘Indians’ could have the first pick of areas, to guarantee their special interests in harvest sites, while still providing for other users to access under or un-utilized sites within the block areas. They proposed that after the five-year period the harvest totals could be assessed, and policy could be adjusted based on the collected information (MNR 1978b).
In spite of these concerns, on May 18, 1978, Premier Davis made a statement to legislature proposing a five-year moratorium on licenses to non-aboriginals for wild rice harvesting. This special provision declared that:

- only ‘Indian’ bands would be licensed to harvest wild rice in the Kenora and Dryden districts.
- outside of these areas all current licenses to other users would be reissued.
- Ontario would extend its efforts to assist Indians to develop appropriate technology and to increase utilization of the available crop
- no additional licenses would be granted to non-Indians for a period of five years
- and that the Tripartite working group on wild rice should include representation of the OWRPA and the OMNSIA

(RCNE, 1979:104)

While efforts were made to include the OMNSIA in this process, these efforts were unsuccessful. Ontario’s position on Métis and ‘non-status Indian’ peoples was that they were not ‘Indians’ under the Indian Act, and therefore held rights no different from other citizens of Ontario. Thus, Ontario continued to refer to the OMNSIA and OWRPA in a single breath as ‘citizens of Ontario’. Status ‘Indians’ were so adamant that non-aboriginal people be prevented from harvesting Manomin that non-status and Métis peoples were unable to establish an effective voice on wild rice matters. OMNSIA proposed that they should be considered as descendants of the first citizens of Ontario, and that they should receive special consideration in the process (OMNSIA 1979; NCC 1979). However, an MNR response to the OMNSIA on hunting and fishing rights clearly expressed their position; “without overall agreement that Métis and ‘non-status Indians’ should have special status in relation to the rest of the citizens of Ontario, no action can be taken to provide special rights on the basis of a specific racial background” (MNR 1978a).

The MNR intention to develop an ‘effective’, ‘commercial’ industry led to significant pressure on Aboriginal communities to use commercial harvesting methods. They argued that Aboriginal wild rice use was ‘ineffective’ and ‘wasteful’
MNR encouraged the use of mechanical harvesters to increase harvest quotas by Aboriginal communities citing statistics suggesting that there was a large deficit between available and actual harvest (MNR 1977). Grand Council Treaty 3 responded by illustrating the faulty nature of these statistics (1981b). MNR also promised to implement programs of support, providing training and technical advice, demonstrations of mechanical harvesting methods, and loan assistance for communities to acquire mechanical harvesting equipment (MNR 1979; MNR 1980d). The Ojibwa argued that this ‘assistance’ was not effective (Grand Council Treaty 3 1980). They also argued that subsidies were readily provided for non-Aboriginal development and research, but not to Treaty 3 people under the guise that funding was for all citizens of Ontario and could not be provided on racial grounds (MNR 1977). Furthermore, they argued that they could not participate equally in the Tripartite process because they were only provided with funds for traveling expenses, and not for research in order to support their claims (Grand Council Treaty 3 1980). They also argued that the MNR approach to push mechanical harvesting methods did not assist with high unemployment because it took work away from the many traditional harvesters in the community.

*Manomin* was also threatened by competing interests such as domestic and sanitary purposes, navigation, fishing, power, irrigation, and reclamation (Vennen 1988). In 1973, the water control board for the Lake of the Woods district flooded the wild rice fields destroying that year’s crop. In 1977, there was a bumper crop. In 1978 and 1979, the first two years of the five-year moratorium, the board kept water levels two feet higher, resulting in a total crop failure (Vennen 1988). The failure, however, was blamed on Aboriginal users, and was used to fuel the push to open up the reserved tracts for commercial development (Vennen 1988).
The Aboriginal response challenged these faulty impressions, and engaged in significant discussions surrounding water levels, and water control structures to protect wild rice crops, and also to have an Ojibwa representative on the Lake of the Woods water control board to bring Ojibwa concerns to the table. In addition, pressure to adopt commercial practices was met with considerable resistance by Aboriginal users. For many harvesters, commercial harvesting contravened the spiritual and cultural teachings associated with the rice harvest. However, in order to defend themselves against pressures to open up the areas to other users, some Aboriginal people did take up mechanical harvesting, especially in Manitoba. As Notske states “today, Manomin is still important, although its social and cultural significance has been modified by new economic factors and Indian ricing activities are being affected by external regulatory forces” (1994:25). Clearly, Aboriginal cultural practices do not exist in a vacuum, and are subject to change in response to political and social pressures. While wild rice production has become a business enterprise for some, and some Aboriginal wild rice producers market traditionally harvested and processed wild rice, there continue to be individuals who harvest Manomin exclusively for personal and community use in the traditionally prescribed manner. Despite these changes, contemporary practice continues to rest on a heritage of cultural teaching and use, and is still considered of critical importance to these communities.

**Wild Rice conflicts and the legal basis of Aboriginal Rights to Water Resources**

Aboriginal water rights research is a small, but growing area of inquiry (Notske 1994; Bartlett 1986; Bartlett 1988). The basis of Aboriginal rights to both land and water hinge on a number of precedents. These are recognized as Aboriginal title,
treaty rights, and riparian rights (Bartlett 1988; Notske 1994; Vennum 1988; Morgan and Thompson 1992). Rights to water resources are even less well defined. Rights to river resources, such as wild rice, draw on British Common Law as well as evolving understandings of treaty, and Aboriginal rights. However, legislative changes have influenced these rights in particular contexts. Thus the theory of water rights and the practice of actual rights do not always align. The Treaty 3 Headlands dispute will be used as an example to illustrate how these concepts are applied in conflicts over wild rice resources.

Aboriginal title - sometimes referred to as ‘inherent right’ or ‘Aboriginal right’ - derives from the original occupation of the land prior to contact (Isaac 1995, Bartlett 1988). The inalienability of Aboriginal title has continued to be debated into the 1990s. However, in 1973, Calder recognized that Aboriginal title derived from the historic occupation and possession of traditional lands, and is not dependent on legislative enactments, like the Royal Proclamation, or upon treaties, or orders in council (Isaac 1995). Calder also noted that the use of water was integral to that of historic occupation. Thus water rights were an implicit aspect of Aboriginal title (Bartlett 1988).

This concept was applied in the case Kanatewat vs. James Bay Development Corporation (1973, 41 D.L.R. (3d) 1, [1975] C.A. 166, rev’g [1974] R.P. 38 (Que.S.C.)) where an injunction was given to the ongoing development of a hydroelectric dam based on Aboriginal water rights (Bartlett 1988). While this decision was overturned based on more complex circumstances of the particular situation, it was not based on whether Aboriginal title to water had existed. Rather, it was based on whether title had been extinguished by legislation (Bartlett 1988).
A second point of contention for Aboriginal water rights, as of 1908 (Winters vs United States, 207 U.S. 564 (1908), 52 L.Ed. 340), guaranteed only those patterns of use which were prevalent at the time of signing (Bartlett 1988). Calder (v. Attorney General of British Columbia, [1973] S.C.R. 313, [1973] 4 W.W.R. 1, 34 D.L.R. (3d) 145) recognized that “a right to water is … an integral part of Aboriginal title. It includes, and does not distinguish between, land and water. Both were central to traditional Aboriginal life” (Bartlett 1988:7). However, once again, water rights could be limited to historic and traditional uses. This framework for understanding Aboriginal rights to water and water resources continued throughout the case study period. As late as 1985 in Attorney General for Ontario v. Bear Island Foundation ([1985] 1 C.N.L.R. 1 (Ont. S.C.) at 38) the courts rejected that rights could extend to contemporary uses stating “the essence of Aboriginal rights is the right of Indians to continue to live on their lands as their forefathers lived…” (Bartlett 1988:7-9).

The issue of modern uses to water and water resources can, however, be considered through the context of treaty rights (Notske 1994; Bartlett 1988). Treaty rights advance those of Aboriginal title. Treaties promised the continuity of access to harvesting patterns ‘as by the past’. However, as stated earlier, they also sought to induce Aboriginal people to take up settled lifestyles, and to encourage farming, and other European based lifestyles. The implication of this is not only the continuity of traditional uses, but also the development of non-traditional uses. For example, a Department of Indian Affairs decision in 1920 suggested that the role of the crown in treaties was to encourage industrial and pastoral pursuits, and cultivation, and thus an “implied undertaking by the Crown to conserve for the use of Indians, the right to take for domestic, agricultural purposes all such water as may be necessary, both now and in the future development of the reserve” (Bartlett 1991:51 quoting Williams). As
Bartlett states, without water rights the object could not be fulfilled, and the land would be without value. Thus, where treaty rights are involved, there is some latitude for entertaining uses beyond those of historic occupation.

Riparian rights once again overlay Aboriginal title (Notske 1994; Bartlett 1988). They are rights possessed by all parties that own lands adjacent to waterways. However, the 1911 Bed of Navigable Waters Act (S.O. 1911, c. 6) enacted by the Province of Ontario caused limitations on this right. It reserved tidal and navigable waters to the Province in order to preserve Provincial interests in such things as hydroelectric, and other potential resources (Bartlett 1988). It stated,

Where land bordering on a navigable body of water or stream has been heretofore, or shall hereafter, be granted by the Crown, it shall be presumed, in the absence of an express grant of it, that the bed of such body of water or stream was not intended to pass to the grantee of the land, and the grant shall be construed accordingly and not in accordance with the rules of the English Common Law (Bartlett 1988:105)

This Act separated Ontario water rights to navigable waters from the common law. However, it was not applicable to Indian reserve lands because the Provincial Crown had not granted them. Yet only reserved lands were free from this encumbrance. In the headland-to-headland dispute, the largest issue at stake was whether the reserve boundaries ran along the shore, or whether they were inclusive of the lands from the two projecting headlands. If the water formed part of the reserve, then the Province had no authority to govern its use, except for the limiting provisions included in the Canada-Ontario agreement discussed in chapter 2 (especially stipulations regarding hydro-electric potential). However, if the reserve boundaries ran along the shoreline, and since water rights were not specifically mentioned in the treaty document, then the Navigable Waters Act would apply, and the Province had the authority to govern their use. This debate was itself tied up with debates regarding treaty promises to
resource harvesting, especially to fish and *Manomin*. This will be discussed in greater detail below.

**Treaty 3 Wild Rice Dispute**

The 1977 proposed changes to the *WRHA* represented a significant challenge to Treaty 3 Ojibwa peoples’ interests in *Manomin*. While Aboriginal, treaty, and riparian rights should have supported Ojibwa resource interests like *Manomin*, they failed to do so. There were several reasons for this. First, there was ambiguity about the reserve boundaries, and thus whether treaty and riparian rights applied (McNab 1983; Bartlett 1988; Avery and Pawlick 1979). Secondly, the official treaty document did not support Ojibwa claims that *Manomin* was a treaty guarantee (Ratkoff-Rojnoff 1980a and b; Bartlett 1988; Vennum 1988; Notske 1994; Avery and Pawlick 1979). In combination with the history of devaluation of Aboriginal interests relative to Provincial interests, and the attitude of the Province regarding economic development, these factors led the MNR to disregard Aboriginal interests in wild rice, and to move towards the development of what it saw as a potentially lucrative business.

Treaty 3 was signed in 1873 with the provision that the signatories would choose land most suitable to them. Following the 1889 *St. Catharine’s Milling* decision, and the subsequent Canada-Ontario agreements on Indian Lands, the Province assumed authority and ownership over surrendered lands, and applied stipulations regarding the selection, location, and extent of reserves (Bartlett 1988; McNab 1983). Several reserve locations were established and surveyed in association with Treaty 3. These reserves were chosen at sites with access to water and water resources (McNab 1983). Grand Council Treaty 3 in their statement on the
Headlands dispute reflects this point clearly. They state, "our people chose marshy areas, land embracing water which would ensure the continuation of our way of life through hunting, fishing, trapping and harvesting" (Grand Council Treaty 3 1979:2).

The Ojibwa expected that these water resources would still be available as in the past. In fact, all parties to the treaty understood that water resources were of utmost importance and significance to the Ojibwa signatories, and would have been considered to be an explicit part of the agreement (Ratkoff-Rojnoff 1988a).

Commissioner Dawson himself made statement to this effect in an 1885 letter. He stated,

> In those days it was never contemplated that there would be such a run on their fisheries by the whiteman as has since occurred. Otherwise the clause in favour of Indians would have been made stronger (in Ratkoff-Rojnoff 1980a:20)

And again in 1888 stated,

> In the case of the Lake of the Woods where there is an unusually large Indian population, the government of Ontario should, I think, be asked to reserve the whole lake for the use of the Indians (in Ratkoff-Rojnoff 1980a:19)

Clearly, it was the intention of the negotiators for the Crown to protect Ojibwa interests in water resources regardless of the explicit wording of the treaty document.

Despite these statements, there was little done to effectively protect Ojibwa interests in water resources in the area. In the period following the signing of Treaty 3, Americans fishing in the Lake of the Woods area caused a significant depletion of fish stocks. This was also an issue for wild rice crops. Concurrently, a number of years of high water levels due to an 1888 dam constructed in the Kenora area, caused very poor rice yields (Ratkoff-Rojnoff 1980a; McNab 1983). These two factors led to a food supply crisis for the Treaty 3 Ojibwa (McNab 1983; Bartlett 1988; Ratkoff-Rojnoff March 1980a).
The Headland principle first appeared in the 1891 Act for the settlement of certain questions between the Governments of Canada and Ontario respecting Indian Lands (S.O. 1891, c. 3), and later confirmed in an 1894 Canada-Ontario agreement. It stated that the lands under the waters wholly or partly encompassed by the reserve, including islands, would be considered to form part of the reserve rather than that presented in the original survey along the shoreline. This provision was presumably a superficial fix, intended to retain some of the fish and rice harvesting areas for Ojibwa use (McNab 1983). From this point forward, reserve boundaries that had been considered to run along the shoreline were now considered to extend from the two headland extensions. It removed this portion of the lake from public access and reserved it for the use of reserve residents exclusively.

However, the inclusion of these lands under water considerably increased the reserve acreage. The Province of Ontario had already registered complaints that the actual reserve allotment significantly exceeded that provided for in the treaty document (McNab 1983). In fact, shortly after the treaty was signed, an article in the Manitoban, a weekly Winnipeg newspaper, stated that the Ojibwa had come to town angry about the size of the allotments and demanding the abrogation, and readjustment of the treaty (Ratkoff-Rojnoff 1980a). Presumably, the extent of the allotments had not been made clear at the time of signing. The surveyor general was sent to look in to the matter. As a result, reserve lands were based on areas chosen by the Ojibwa representatives rather than on the maximum entitlement dictated by the terms of the treaty (McNab 1983).

This fact caused some distress to the Province. The Province felt that the locations of reserves were ‘injuriously located’ relative to the ‘opening of contiguous territory’ but agreed to approve the reserves so long the Province received suitable
compensation (McNab 1983). The matter was settled in a series of meetings between Ontario Ministry of Lands, Forests, and Mines, and the Superintendent General of Indian Affairs, and their deputies Aubrey White and Duncan Campbell Scott respectively. At this time the Province pressed its concern regarding the location and extent of the reserves. In 1914, after much debate, Scott recommended to the Minister that the reserves be confirmed as in the original survey, the Province being compensated for lands in excess of the treaty allowance based on the reserve acreage alone (McNab 1983). While the matter was still under consideration by the Federal government, the Province rapidly passed the 1915 Act to confirm the title of the Government of Canada to certain lands and Indian lands which stated that

The land covered with water lying between the projecting Headlands of any lake or sheets of water not wholly surrounded by an Indian Reserve or Reserves and islands wholly within such Headlands shall not be deemed to form part of such Reserve, but shall continue to be the property of the Province, and the Bed of Navigable Waters Act shall apply (McNab 1983:153).

The government of Canada did not concur with this decision despite the involvement of the Deputy Superintendent General of Indian Affairs, and they did not enact similar legislation confirming its validity. Thus, the 1915 Ontario Act stands in violation of the 1894 agreement (Bartlett 1988; McNab 1983).

At the time of the Ardoch, Ontario Mud Lake conflict, the Treaty 3 reserve boundaries were still not settled. Treaty and riparian rights had been ineffective in protecting Aboriginal water resource interests. The failure to agree on the boundary question left no clarity over Aboriginal resource access and control. While the Province made verbal commitments to address the issue, their true intentions were aptly illustrated in a Treaty 3 document detailing the ongoing promises, delays, and inaction of the Provincial government from July 1978 to June 1981 (Grand Council
Treaty 3 1981a). The Ontario government took the position that it had no legal obligation to the Treaty 3 people relative to any claim. However, they proposed that Ontario extend some efforts to assist in meeting the needs of Treaty 3 Indian peoples to overcome social and economic difficulties irrespective of any claim (MNR 1980c). In this way, the Provincial government sidestepped the boundary question, and continued to exert its authority over all of the resources of Ontario, and over Ojibwa people as citizens of Ontario.

A further question adding to the question of Ojibwa water rights in the Treaty 3 area was the lack of clarity around treaty promises to *Manomin*. The official version of the treaty made no reference to *Manomin/wild rice* and did not guarantee rice-harvesting rights, much less, exclusive right to Ojibwa harvesters (Vennum 1988; Notske 1994; Ratkoff-Rojnoff 1980a; Avery and Pawlick 1979; etc…). However, the Treaty 3 people claim that *Manomin* was discussed, and was set aside for Ojibwa use (Ratkoff-Rojnoff 1980a; Avery and Pawlick 1979). In support of this statement, they hold a document that they claim was produced during the negotiations, and signed by two of the Métis interpreters working for the Ojibwa. This document, often referred to as the Nolin notes (PAC RG10, 1918, 279OD), was considered important at the time of signing, and was included in the official dispatch to Ottawa along with the treaty document (Ratkoff-Rojnoff 1980a). In fact, Ratkoff-Rojnoff surmises that because of the difficulty of translating technical and legal terminology into the Ojibwa language, this document is very likely the version of the treaty that Ojibwa signatories agreed to, as it is written in a form consistent with treaty documents (1980a). She also notes that there is a good deal of consistency between the official document, and the various versions produced by other parties during negotiations, including the Nolin notes. This lends credence to the validity of the Nolin document.
(Ratkoff-Rojnoff 1980a). This document explicitly states that, “the Indians will be free as by the past for their hunting and rice harvest” (Notske 1994:18; Ratkoff-Rojnoff 1980a:21; Avery and Pawlick 1979:37). Considering the centrality of Manomin to the Ojibwa generally, and this region specifically, it is unlikely that it would not have been a priority in the guarantees sought by the Treaty 3 signatories. However, the Province has consistently refused to acknowledge Aboriginal rights to wild rice. Once again, treaty and riparian rights were unable to protect Ojibwa interests to significant water resources in the Treaty 3 area.

The very fact that boundaries and resource rights were debated has much to do with the devaluation of Aboriginal resource interests relative to Provincial, and other, interests. In general, history illustrates inadequate attention to the protection of Aboriginal resource interests (fish and wildlife from non-aboriginal harvesting; Manomin from flooding and harvesting) (Ratkoff-Rojnoff 1980a; Richardson 1993). Thus, while the treaty was for the purpose of encouraging the evolution of a settled and self-sufficient agricultural community, the lack of adequate lands and protection of resource interests let to starvation, and significant levels of government dependency (Ratkoff-Rojnoff March 1980).

During the 1950s and 1960s some of the boundary disagreements were settled. It was at this time that the WRHA debates took place. The WRHA was enacted in 1960, and in 1961 the ten large harvesting areas were set aside as a special provision for Ojibwa reserve communities. As stated earlier, the 10 block areas established in 1960 were designed to protect the interests of Ojibwa communities in the Treaty 3 region from people coming from Manitoba and the USA to harvest wild rice (MNR 1979). In the 1970s, the Treaty 3 Grand Council became increasingly proactive in seeking the resolution of their claims to water and water resources confirmed through
the headland-to-headland principle (Bartlett 1988). This was the state of affairs when, in 1977, the MNR developed their proposal to revise the *WRHA* in the interest of developing a wild rice industry in the region.

Throughout the 1979-82 study period MNR files held a great deal of information on the Treaty 3 situation. The movement by Treaty 3 Ojibwa to protect their interests in the *Manomin* was adamantly opposed by MNR at this time. MNR planners stuck to a strict reading of the official treaty document. They insisted that there was no provision in the treaty to set aside *Manomin* exclusively for the Ojibwa, nor was there a guarantee of access (MNR 1979). Furthermore, they stated that Aboriginal access had been maintained exclusively through the good will of the state, which had chosen to support that access because of its importance to the Ojibwa people. MNR aggressively contested the Aboriginal perspective that the block areas had recognized their Aboriginal rights to the rice. They stated their intention to continue to reserve smaller, commonly harvested areas within the original block areas for Ojibwa peoples strictly as a courtesy. MNR was firm in its insistence that the block areas be opened up for commercial development (MNR 1979).

In response to Ojibwa protests, the RCNE report recommended that the 10 block areas remain intact, and that a five-year moratorium be established, principally to allow Ojibwa harvesters the time to develop an Aboriginal led wild rice industry. Despite occasional moves to challenge this resolution, there has been no change. The ten block areas continued to be reserved for Ojibwa reserve communities into the 1990s.

As with other resources, the relationship between Aboriginal people and *Manomin* has been significantly influenced by evolving legislation, treaties, and court decisions. These developments have gradually eroded Aboriginal authority and
access to *Manomin* through the application of rules and regulations, by defining geographic zones of access and participation, by establishing provisions allowing protected access to only certain Aboriginal people, by imposing non-aboriginal attitudes to resource use, and by pushing for the economic development of wild rice as a commodity resource. These actions on the part of the Province to regulate wild rice as a natural resource have appeared as if to be an assault on Aboriginal cultural practice.

Aboriginal people, most notably the Ojibwa of Treaty 3, have resisted the constraints placed on them by the Provincial government. They have struggled to maintain their own cultural uses of *Manomin* and to protect it from external exploitation. While there have been impacts on Aboriginal community practice, they have sought to maintain a healthy relationship with *Manomin*, one that recognizes the role it plays in their lives, traditions, and identities. Thus, while the history of wild rice policy has circumscribed Aboriginal access to *Manomin*, and has replaced Aboriginal control of the resource with Provincial authority and control, Aboriginal people have continued to express their own values relative to the resource, and have sought to make some space in which to maintain their harvesting traditions.
CHAPTER 4: OCCUPATION/SETTLEMENT – HISTORICAL AND CONTEMPORARY CONTEXTS

The context of this research project cannot exclude an understanding of the evolution of Aboriginal, and non-aboriginal occupation of the study region. This chapter reviews current research into the history of Algonquin, and to some extent Mississauga occupation of the Ottawa Valley, followed by a review of research on settler movement into the larger area (especially Clarendon Township) through a variety of settlement policies. This review explains the influence of those policies on the location, functional possession, and visibility in the landscape of the Algonquin peoples. Flowing from this historical context, a snapshot of the Ardoch region in the 1980s provides some insight into the social dynamics of the local area at the time of the conflict. This provides a local, and historical context for the Mud Lake wild rice conflict, and a base history for the development of the Ardoch community.

It must be noted that there is a dearth of research detailing the situation of the Algonquin peoples in the period from the 1920s to the 1950s. Oral testimony provides some insight into this time frame. However, the research by Huitema (2001) successfully links Harold Perry, and the Ardoch site, through genealogical and documentary research with the Algonquin peoples living in the Ottawa valley in the 1760 to 1930 time period. While this chapter does not provide a clear picture of the whole of settlement history, it situates the Algonquin people within the region, and then picks up the threads with the Perry family in the 1980s when the effects of settlement, and colonial history take their toll in the wild rice conflict.

This paper has no intention of establishing Algonquin occupation in any authoritative manner. Rather, a brief synopsis of the work of other researchers will provide a regional context of Algonquin occupation and settler movement into the
region, and Algonquin presence in the townships surrounding the case study area, as well as at the case study site in Ardoch, Ontario. This will lead to a brief discussion of the implications. For a more detailed examination of Algonquin and Mississauga occupation, and non-aboriginal settlement history see Huitema (2001), Osborne and Ripmeester (1997, 1995); Clement (1996); Holmes (1995); Trigger and Day (1994); Armstrong (1982); Osborne (1982, 1977, 1976); Taylor (1981); Nuttall (1980); Noble and Osborne (1978); and Day and Trigger (1978).

**Algonquin occupation of the Ottawa Valley**

There is considerable recognition that Algonquin peoples inhabited both sides of the Ottawa valley in the early 1600s (Huitema 2001; Holmes and Associates 1995; Trigger and Day 1994; Ratelle 1993). By the early 1700s they were frequenting Lake of Two Mountains for the summer months as a result of European settlement in the region, and would return in the late summer to their hunting grounds in various parts of the Ottawa watershed (Holmes 1995; Trigger and Day 1994). The 1700s were a period of considerable conflict in the St. Lawrence corridor, generally leading the Algonquin to avoid settlement in the St. Lawrence valley (Trigger and Day 1994). During this timeframe, Mississauga people expanded south from their homelands northeast of Lake Huron (Osborne and Ripmeester 1997). A group referred to as the ‘Kingston Mississauga’ was living throughout the Kingston region at the time of the loyalist settlement in the late 1700s (Osborne and Ripmeester 1995).

There is some speculation regarding the exact nature of the boundaries between the Mississauga and Algonquin nations (Huitema 2001). However, early petitions by the Algonquin and Nipissing peoples consistently described their territory as lands whose waters flowed into the Ottawa River, “encompassing both sides of the Ottawa
River from Long Sault (above Carillon) to Lake Nipissing” (Holmes 1995:4 - Figure 4). Despite ongoing petitions by the Algonquin peoples stating their claim to the lands in question, parts of the Ottawa valley were surrendered by Mississauga signatories (see Figure 5).

To some extent, this is due to the relationship between the Algonquin peoples, and the French colonial authorities at Lake of Two Mountains. Upper Canada officials assumed that the Algonquin were under French authority, which was separated from British authority, by the Ottawa River. This arbitrary line dividing Upper and Lower Canada was a colonial designation, without reference to Algonquin territorial boundaries. Because the Algonquin summer gathering place was at Lake of Two Mountains, and their access to colonial authority was through French officials, they had no government representative in their Upper Canada homelands (Holmes 1995). Algonquin peoples faced significant trouble in having their grievances heard due to the separate jurisdictions created through the Constitutional Act of 1791, dividing Algonquin lands between Upper and Lower Canada (Holmes and Associates 1995). Each district claimed that the other district had jurisdiction over Algonquin matters, or documentation to support Algonquin claims was located in the other jurisdiction and was unavailable for consultation (Huitema, 2001).

Thus, Crown authorities chose not to acknowledge Algonquin occupation, believing they should remove themselves from Upper Canada, and restrict their occupation to the northern side of the Ottawa River (Huitema 2001). This belief was influenced by statements expressed in an 1816 Mississauga petition stating that Algonquin claims did not cross the Ottawa River (Huitema 2001). Thus, the Crown acknowledged the
Figure 4 – The Algonquin Nations in the early 1600s

Source: Huitema, M., 2000, “Land of which the savages stood in no particular need”: Dispossessing the Algonquins of South-Eastern Ontario of their Lands, 1760-1930. Queen’s University M.A. (Geography)
Figure 5 – Mississauga Land Cessions: 1783 – 1923; and Contemporary Algonquin Claim Area

Source: Huitema, M., 2000, “Land of which the savages stood in no particular need”: Dispossessing the Algonquins of South-Eastern Ontario of their Lands, 1760-1930, Queen’s University M.A. (Geography)
Mississauga as owners of the Ottawa territory, and treated with them in order to open
the area for settlement.

Incursions into Algonquin areas became an issue following the Crawford
Purchase (1783) between the Crown, and the Mississauga for a tract of land along
Lake Ontario. This territory was treated for in order to settle white, and Iroquois
Loyalists following the American War of Independence. The boundaries of the
*Crawford Purchase* were less than clear, and it is likely that white and Iroquois
trappers, squatters, and lumbermen extended the boundaries, pushing further north to
hunt, trap, and harvest lumber (Huitema 2001). The result was that by 1791, and
again in 1798, Algonquin petitions complained that their lands were being ‘pillaged’
by settlers, and Iroquois hunters (Holmes 1995). The colonial government was either
unable, or unwilling to stop these incursions. In an effort to contain the advance,
Algonquin peoples offered to cede 40 arpents of land from the Ottawa River, under
the condition that they retain the backcountry for their own use (Huitema 2001).

Furthermore, in spite of ongoing Algonquin petitions, the Crown chose to treat
with the Mississauga for a further tract of land in the Ottawa valley. This treaty,
known as the *Rideau Purchase* (1819), took possession of a large portion of
Algonquin lands in southeastern Ontario without Algonquin knowledge, or consent
(Huitema 2001; Surtees 1994; Day and Trigger 1978). This included lands from the
Rideau, along the Ottawa, and past the Madawaska River.

Subsequent petitions and complaints from Algonquin chiefs, and a series of
letters from Indian Agents and Commissioners, supported the Algonquin claim to
occupation of the contested territory. For instance, the Macaulay Report in 1839
stated that “both Provinces [Ontario and Quebec] should negotiate with the
Algonquins since it appears that both areas encompassed their hunting ranges and that
the Algonquins had rightfully challenged the claim of the Mississauga Indians to land south of the Ottawa river” (quoted in Huitema 2001:190-1). Furthermore, the Bagot commission, 1842-1845, concluded that the Algonquin and Nippissing should receive a portion of the annuities that were being paid to the Mississauga for that portion of Algonquin lands ceded by them (Huitema 2001). While the Crown did entertain the claims of the Algonquin people to Mississauga annuities, direct action was never taken, and little was done to support the Algonquin people.

After the war of 1812 the government had little need for Aboriginal allies, and their focus shifted toward the settlement of lands, and the establishment of reserve communities for Aboriginal inhabitants. In the mid 1800s, reserves were set aside for Algonquin communities at Maniwaki, Quebec (1851), Temiskaming, Quebec (1851), and Golden Lake, Ontario (1865-6 enlarged in 1873-5) (Huitema 2001). However, the authorities continually stalled at resolving the issue of Algonquin claims. The end result was that Algonquin peoples living outside of the established reserve communities were ignored, and left to resolve the problem on their own.

Several Algonquin groups continued to live a semi-nomadic lifestyle in their home territories, choosing not to relocate to the various reserves because they were outside of their homelands, and among unrelated peoples. They continued to inhabit the southern portion of the Ottawa valley within the watersheds of the Mattawa, Bonnechere, Madawaska, Mississippi, and Rideau Rivers (Huitema 2001 – Figure 6). Some Algonquin families settled at the Golden Lake reserve but many remained in the surrounding townships of Sabine, Lawrence, Nightingale, Bedford, Oso, Palmerston, and South Sherbrooke. Other groups were dispersed throughout the watershed but were rarely acknowledged because of their lack of affiliation with a reserve (Huitema 2001).
Figure 6 – Algonquin Claim Areas in South-eastern Ontario: 1840 – 1899; and Indian Reserve Locations

Source: Huitema, M., 2000, “Land of which the savages stood in no particular need”: Dispossessing the Algonquins of South-Eastern Ontario of their Lands, 1760-1930, Queen’s University M.A. (Geography)
Some Mississaugas also continued to reside in the Ottawa valley, most notably in the Bedford area north of Kingston (Taylor 1981; Osborne and Ripmeester 1995; Ripmeester 1995). Despite the fact that Methodists had established a reserve for the Mississaugas at Grape Island in 1826, some Mississaugas refused to move to Grape Island, or returned to the area from Grape Island because of their dislike of the rigid Christianity imposed there (Ripmeester 1995). A reserve was established for these wandering Mississaugas in 1832 at Bedford (at Wolfe Lake). When the surveyor went to survey the site at Bedford, he noted that there were other Indians already living there. The Mississaugas settled on 2680 acres. However, parts of the reserve area were already granted, and there was a considerable presence of lumberers, and squatters (Osborne and Ripmeester 1995; Taylor 1981; Osborne 1976). After the establishment of the Alderville reserve in 1833, to replace the Grape Island reserve, an agent of the Crown required that the Bedford Mississaugas move with their ‘brethren’ to the newly established Reserve (near Peterborough and Rice Lake) (Osborne and Ripmeester 1995). Many of the Mississaugas moved, but again, some remained. A number of Mississaugas who remained in the Ottawa valley are known to have intermarried with Algonquin peoples, and chose to live in the area with the Algonquin community (for example, Beavers who married into Whiteduck and Mitchell families in the Ardoch area), though some moved back and forth between the Mississauga reserve, and Algonquin communities (Huitema 2001; Holmes 1995).

The Mississauga Bedford Reserve was formally surrendered by the Mississaugas in 1836 (Huitema 2001). Eight years following the removal of the Mississaugas, and following a series of petitions, a licence of occupation for a tract covering portions of
Bedford, Oso, and South Sherbrooke townships was granted to an Algonquin group under Peter Shawanapennissi (Stephens, Stevens), ‘during the pleasure of the Crown’ (Huitema 2001:123). Their settlement was based at Clear Lake, a finger, extending southward off of Bob’s Lake (see figure 7). The Algonquin families immediately began to complain about the presence of lumberers on the tract (Huitema 2001). While the Crown had issued the license of occupation, the Department of Crown Lands had issued timber licences, apparently unaware of the license of occupation granted to the Algonquin group (Huitema 2001). T.G. Anderson visited the Algonquin Bedford settlement in 1845, and distributed annual presents at that time - the last known distribution of presents from Lake of Two Mountains. He noted that they were surrounded by lumberers, and recommended that they move to the Manitoulin reserve (Huitema 2001).

Over time, this tract was made untenable by incursions of lumbermen and squatters, forcing the group to disperse throughout their larger territory (Huitema 2001; Holmes 1995). Settlement was by now progressing throughout the Rideau tract. For instance, Clarendon Township, in the north of Frontenac County, had timber limits surveyed in 1840, and the township was opened for settlement in 1861. This influenced Algonquin movement. By the mid 1800s, many Algonquin peoples were no longer travelling to Lake of Two Mountains (Montreal). This was, in part, due to the fact that they could obtain religious instruction and supplies in the interior as a result of progressing settlement. However, depleted hunting stocks resulting from settler use of the resources left them with little resources to make the trip.
Figure 7– Algonquin and Mississauga locations in Frontenac and Lanark Counties: 1810

Source: Huitema, M., 2000, “Land of which the savages stood in no particular need”: Dispossessing the Algonquins of South-Eastern Ontario of their Lands, 1760-1930, Queen’s University M.A. (Geography)
Records indicate numerous Algonquin groups dispersed throughout the Ottawa valley in the later half of the 19th century, and some were submitting claims as late as 1899 as independent groups for access to lands (Huitema 2001). The government ceased to negotiate with the Bedford/Oso Algonquin group by the 1850s. Presents to the ‘wandering tribes’ were formally withdrawn in 1852, and Algonquin claims ceased to be considered in 1899 (Huitema 2001). Records from the 1842-63 time period indicate that the ancestors of the Ardoch Algonquin community were leading a semi-nomadic life from the Ottawa River, down to the townships north of Kingston. The extended Whiteduck family were members of the Stephens group (Huitema 2001). In 1861, in response to ongoing petitions from the Stephen’s group, W.R. Bartlett, Superintendent of Indian Affairs, ordered that the group to go to Manitoulin if they were from Lake of Two Mountains, or to Alnwick if they were Mississauga (Huitema 2001).

The 1861 census lists many Algonquins as French (because of ties to Lake of Two Mountains), or half-breeds (because of intermarriage) (Huitema 2001). The 1871, and 1881 census shows a Whiteduck family at Ardoch. At this time the Whiteduck family are consistently occupying Oso, Bedford, Clarendon, Palmerston, and South Sherbrooke. The 1891-1909 records also show the Whiteduck family in possession of lands in the Clarendon and Oso district (Holmes 1995; Huitema 2001). While Algonquin families were clearly present throughout the Ottawa valley throughout this timeframe, they became marginalized through a lack of recognition, and through the mechanisms of settlement, which failed to record their continuing occupation of the region. For example, municipal, and church records often illustrate Algonquin possession of territory in the area, while Provincial land records do not (Huitema 2001). These Provincial records are themselves often inaccurate due to the
absence of information. Furthermore, it is unlikely that Aboriginal families would have applied for a location ticket on lands that they considered to be their traditional territory, nor is it clear that they would have been granted locations if they had (Huitema 2001). Without an application for a location ticket, their presence would not have been noted in Provincial/colonial land patent plans, or land registry books. Since Aboriginal homesteads were not recognized as valid, and the Crown considered itself to possess full authority over the lands through the Crawford (1783), and Rideau (1819) treaties, lands were granted to non-aboriginal settlers, regardless of an ongoing Algonquin presence in the area.

As a result, Algonquin families became invisible in their homelands. They were dispossessed from their authority over their lands through the settlement process. This dispossession was not so much through physical removal, though they certainly would have been pushed off of lands by the new owners. Rather, the dispossession of Algonquin families was accomplished through the authority of settlers over the lands patented to them. As Huitema states, “what is significant is that two societies and two cultures, Indian and Euro-Canadian, continued to exist in close proximity even though official records suggested that the Indian people were no longer involved in the history of the area” (Huitema 2001:187).

Huitema concludes that a kinship group of the Whiteduck lineage continued to occupy the territory in and around Clarendon Township from the mid 1800s to the present day (Huitema 2001). The Whiteduck family has an ongoing presence in church records in Perth and Westport. They also show an active presence in the larger region with Clarendon Township in the centre. Evidence suggests that their hunting territory included all of the Mississippi and Rideau watersheds, and part of the Madawaska watershed (Huitema 2001).
Settler movement into the region

Settler activity began in Clarendon Township in the 1840s with the timber survey, and subsequent granting of logging permits. Though it was not granted, the first request for a patent of land was recorded in 1841, and early records and survey notes give reference to squatters already in the area at the time of survey (Nuttall 1980; Armstrong 1982). Settler movement into the northern reaches of Frontenac County were well underway by 1850 (Osborne 1977, 1976). Timber limits in the Mississippi River system were surveyed in 1847 (Armstrong 1976), and the Frontenac Colonization Road was surveyed, and laid in 1856-7 as a result of the 1853 Colonization Roads policy (or Public Lands Act), facilitating the ready migration of settlers into the region. J.A. Snow’s Clarendon land survey, carried out in 1861, described the northern two thirds of the township as ‘suitable for settlement’ (Nuttall 1980). However, the area was very rocky, and the best areas for agriculture were not necessarily readily apparent. Many sites initially occupied by settlers were later abandoned in favour of better locations (Nuttall 1980; Osborne 1976).

The Free Grants and Homesteads Act of 1868 offered Clarendon Township as a Free Grant area (Nuttall 1980). Settlers could apply to the Crown Land Agent, and obtain a location ticket within the township. They would receive title to the land after five years if a number of required land improvements were completed. This designation of Clarendon Township as a Free Grant area was followed by a surge of settlers, each receiving one lot approximately 100 acres, usually containing very little arable land. Few, however, lasted the year due to the poor land quality for agricultural purposes, and this initial surge was followed by a rapid decrease (Nuttall 1980; Osborne 1977). Peak years for the issuance of location tickets are 1877-89 (see
Figure 8). In spite of the poor success rate of new settlers, settlement did gradually move away from Frontenac Road (Nuttall 1980). By 1900, much of the upper two thirds of the township was in private hands (Nuttall 1980). Lumbering and mining interests had significant freedom in the northern portions of Frontenac County (Nuttall 1980). Figure 9 clearly shows the extent of lumbering and mining interests in Clarendon Township prior to 1900, while figure 10 illustrates land ownership and patents prior to 1900, clearly illustrating the overwhelming influx of settler peoples into the region in a relatively short time frame.

This significant influx of settlers led to considerable hardship for the Aboriginal inhabitants in the area (Algonquin, and Mississauga). As Huitema states “it is clear that the activities of the early settlers … would come in conflict with the ability of the Indian people to maintain their level of self-sufficiency” (2001:155-6). Both settler, and Aboriginal peoples made use of hunting and trapping, leading to competition for increasingly scarce resources. Because settlers were recognized as legitimate inhabitants of the area, Aboriginal inhabitants were pushed further to the margins for survival, and forced into adaptive strategies such as travelling further north to hunt, working in the timber and lumber industries, and selling what products they could (i.e. moccasins made from tanned hides). When men went north to work on timber drives, or to hunt, women remained in the area, subsisting by gathering natural resources, and by doing menial chores for settler families. This was a period of considerable hardship for Aboriginal peoples in the region, and survival often depended on the good will of the settler families.
Figure 8 – Peak settlement years illustrated through location tickets and purchasers: 1870 - 1899

Source: Nuttall, A. The Success of Government Settlement Policy in the Ottawa-Huron Territory, 1853-1898, MA Thesis, Queen’s University 1980
Figure 9 – Lumbering and Mining Interests in Clarendon Township

Source: Nuttall, A. The Success of Government Settlement Policy in the Ottawa-Huron Territory, 1853-1898, MA Thesis, Queen’s University 1980
Figure 10 – Replace with proper map

The village of Ardoch is located in the upper third of Clarendon Township, was originally named Millburn, Milltown or Melbourne. It was recorded as Ardoch when the first post office was established in 1865 (Armstrong 1976). A major product of the area was lumber, which was floated down the rivers and streams to market (Armstrong 1976). Aboriginal people in the area were known to work in the lumber industry, and helped to develop the infant communities. By the 1880s, the population of Ardoch had increased to roughly 75-100 residents. The area functioned as a regional centre along with the town of Buckshot (now Plevna). They offered many services including two general stores, carpentering, blacksmithing, shoemaking, tanning and saw milling (Nuttall 1980).

Local texts based on oral testimony state that Indian names remembered in the area include Mitchell, Perry, Buckshot, Beaver, and Whiteduck (Armstrong 1982). These names can be found in the various church and municipal records. The Whiteduck family was recorded in the 1871, 1881, 1891, and 1901 manuscript census, and the 1895 and 1900 municipal assessment rolls, as residing on lots in the community of Ardoch – thought the lot designation and size was not consistent (Huitema 2001 – Figure 11). They were also variously listed as owners or freeholders. Clearly, these documents (census and assessment rolls) are inconsistent, and unreliable. However, they do record ongoing occupation of land by the Whiteduck family. According to Huitema (2001), it is likely that the Whiteduck family had their main camp at concession V, lot 26, but utilized a much larger area, and were merely noted as residing at various locations by different officials at different times. To confuse the issue, a settler, John Henderson was also recorded at
Figure 11 – insert correct map

Lot 26 NER where he operated a tannery producing materials for shoes and horse tackle (Armstrong 1976). It is likely that Mr. Henderson applied for, and was granted a location ticket, for an area of land that was not registered as belonging to the Whiteduck family, or any other family, and thus took ownership of this lot. Whether the Whiteduck family worked at the tannery is unknown. However, Algonquin residents were recognized for their skills in tanning deer hides, and in the production of gloves, jackets, moccasins, and other items (Armstrong 1976).

This history provides a picture of transformation from Aboriginal authority and occupation of hunting territories to a mapped and charted landscape where Algonquin presence is marginalized. It illustrates a process through which the lands of the Algonquin people were appropriated through treaty with Mississauga signatories, and by settler families and industries as a result of the pre-settlement policy advanced by the Public Lands Act and the Free Grant and Homestead Act. These treaties and policies had a significant effect on the dispossession of Aboriginal peoples within their territories, and led to a drastically altered political, social, cultural, and physical landscape.

**Ardoch and the region: 1980**

While the settlement period had brought large numbers of people to the region, the lands did not readily support agriculture. Mine closures in the 1920s and 1930s, significantly influenced the population numbers of the region (Respondent 2). Railroad closures in the post-war period furthered this decline leading to the collapse of many towns (Respondents 2, and 6). By 1980, the united townships of Clarendon-Miller were generally economically poor, with much of the economy based on tourism and the cottage industry. According to the 1981 Canada census, there were
445 permanent residents in the larger area of Clarendon-Miller, with 33 people living at Ardoch – this compared to the 75-100 residents in 1880.

Interviews with township officials and residents indicated that the population of the region tripled, or quadrupled during the summer months due to the presence of cottage residents. The bulk of permanent residents were employed in cottage, and tourism related employment (Respondents 1, 2, 4, and 6, and the Clarendon-Miller Township office). During the summer months, the cottagers, and their ways, significantly altered the nature of the community. Interviews indicated that local residents felt some resentment towards seasonal residents, as well as officials from outside of the area (Respondents 1, 2, 4, and 6). While seasonal residents brought jobs, they also brought ideas about development that were not necessarily in the interest of local residents. They also had considerable power to influence local planning (Respondents 1, and 6). Local residents also felt that government officials, and their policies were responsible for several adverse effects on the local community (Document 2). These factors resulted in a certain amount of resentment against outsiders generally (Respondents 1, and 2).

The 1981 average income for Clarendon-Miller is listed as $6278, while the greater Kingston area has an average income of $12,197, roughly double the Clarendon-Miller figure (1981 census). An interview with a community social worker from the 1980 period suggested that less than 10% of households existed without transfer payments of some kind (government employment income: teachers, township offices, etc. or other transfers: unemployment insurance, social services, old age benefits) (Respondent 6). The 1981 census lists 210 of 345 residents as having an income from employment. The average income from employment at $5733 is even lower than the income average for the region. The local grocery store was known to
give credit through the winter months, for residents to pay off during the summer months of employment (Respondents 2, and 6). Only 75 of Clarendon-Miller residents had obtained a secondary certificate in 1981, and only ten had any education beyond that level. Roughly half of the residents of Clarendon Miller were in the labour force, but only 45 of those described their employment as ‘mostly full time’ (1981 census).

Relations between the settler population, and the Aboriginal people were not always on good terms. An informant stated that Aboriginal people were generally accepted so long as they ‘behaved themselves’, and did not ‘talk back’ (Respondent 1). Clearly there existed some animosity between Aboriginal and settler populations. However, the local Aboriginal people were seen as ‘insiders’ and residents. Harold Perry, a descendent of the Whiteduck family, was a relatively successful, and respected businessman in the area. He possessed trade certificates in a number of fields and operated as a building contractor, often employing local residents.

In 1957, Mr. Perry had applied for a patent to concession V, lot 27 - known as ‘The Point’ - the same area occupied by his ancestors since the mid 1800s. He was granted that land as a free grant patent, reflecting the continuity of Algonquin occupation in the region (Huitema 2000). Many people knew that Harold Perry was a descendant of the Whiteduck family. The 1981 hearing document records Robert Lovelace stating that some residents thought ‘The Point’ was an unofficial reserve (Document 2, 1981).

1 ‘The point’ is the local terminology for the location of the Perry homestead noted as concession V, lot 27 (see figure 11).
There was, in fact, some pride in the continuation of the *Manomin* harvest each year (Respondents 2, and 4). Local non-status Algonquin residents gathered with Mississauga relatives, largely from the Alderville reserve, but also Curve Lake, to harvest *Manomin* annually. Some non-native families also participated in the annual harvest. Several documents record Harold Perry’s testimony that this rice was shared with local, non-aboriginal residents, especially during the great depression (Document 1, 1980; Document 2, 1981; Document 4, 1980; Document 6, 1980). Mr. Perry states, “I wouldn’t be as healthy as I am today if not for the rice… and some settlers too” (Document 2, 1981).

Thus, while some factionalism existed, there was a general feeling of collective struggle in the area. Mr. Perry was known to be the rice steward. Local oral history acknowledges the planting of the rice some time around the 1900s by one of Harold Perry’s grandmothers. She brought the rice from Rice Lake, at Alderville, in balls of mud so that it would not dry out (Document 1, 1981). This fact is now generally accepted, since testing on the rice verified that it was of the same type as that at Rice Lake, rather than the type known to exist in the Rideau river system (Respondent 1).

Several Alderville Mississauga residents related to Mr. Perry through his mother’s side, as well as Algonquin people from the area came to harvest the *Manomin* annually (Document 1, 1981). Indeed, Harold Perry reported that the predominant number of *Manomin* harvesters were relatives from the Alderville reserve. However, the crop has been seen as a Perry family tradition. Harold’s father, Richard Perry who was of Algonquin descent, tended the crop throughout his lifetime, and Harold took over the task upon his father’s death.

Harold Perry remembers ricing activities when he was very young:
Figure 12 – Ardoch & Mud Lake Wild Rice Estimate - 1979

Source: Crysler and Lanthem LTD. Side Dam Rapids Dam: Preliminary Engineering Study, Mississippi Valley Conservation Authority, Dec. 7, 1979
I have recollections starting about six years old and remember then and until war time 1939 of the Indians coming from other areas for the rice harvest, more so than at any other time, many from Alderville. I remember the smoke house, tanning of hides, moccasins, learning things from Ross and Bill Beaver, my father and others, and dancing the rice. Those were the very hard times of the depression and the wild rice was a major factor in pulling the Indians, the local settlers and ourselves through (Document 1, 1981).

He states that little ricing took place during the war because of the lack of men to do the work. Being too young to go to war, Harold Perry continued to care for the rice. Mr. Perry also remembers a period in the mid-1950s when the rice was diminishing. The river was noted to have a green slime on the bottom. While there is some speculation as to the cause there is no definitive evidence. Harold Perry states, “Indians came, monitored and took very little or none” (Document 1, 1981). There was also spraying of the foliage around the hydro lines at that time and Mr. Perry notes that he spoke with Hydro workers, and was told that they were spraying 2-4D, and 2-45T (agent orange) to control the vegetation (Document 2, 1981). Since the Hydro line runs parallel to the Mississippi, about one mile distant, it was speculated that the chemicals were brought to the lake through natural stream movement, and may have affected the Manomin plants.

Throughout the late 1960s, and early 1970s, Harold Perry and his father Richard Perry, re-seeded the lake as is commonly practiced by Aboriginal peoples in other regions where Manomin is grown. When the rice is sparse it is left to rest and rejuvenate (Moodie 1991; Peers 1996; Ratkoff-Rojnoff 1980). Harold states that after several years of monitoring, resting, and reseeding the rice bed they were finally able to harvest a small crop (30 lbs) in the early 1970s before his father’s death in 1974. The crop began to thrive in 1978, and the Aboriginal users began to cautiously take rice again (Document 1, 1981; Document 4, 1981). Harold recollects his father
talking of resting, and reseeding the rice in the 1920s. It is not known whether this represents a cycle in the life of the rice bed, or if each period reflected environmental influences such as water levels, toxins, or disruptions to the growing crop (i.e. timber drives).

As we can see, the structure of the Ardoch community, and the larger region in 1980, flows from the evolution of events relative to Aboriginal Peoples generally in the Province. The evolution of occupation and settlement, as well as the evolution of Aboriginal access and authority over natural resources like wild rice creates an environment where Algonquin peoples are marginalized, and their authority over the resources within their homeland is eroded. Thus, while the Mud Lake wild rice conflict started in 1979 with the issuance of the commercial harvesting licence, this is not where the story begins – it begins with the history of exclusion illustrated in these context chapters.
Part II

Case Study
CHAPTER 5: THE MUD LAKE WILD RICE CONFRONTATION

The previous chapters provide insight into the ways that the regional, and policy environments were shaped over time. This chapter provides a detailed chronology of the Mud Lake conflict, beginning with an introduction to the Ministry of Natural Resources (MNR) involvement in the region that led to the conflict under consideration. This is followed by a chronology of the four-year study period. The study period begins in 1979 when the original licence to Lanark Wild Rice (LWR) was granted. It is a point in time when interests, hitherto unaware or unconcerned with each other, suddenly come into conflict over a particular natural resource, at a particular site. At this point in time, provincial policy comes squarely into conflict with a long-standing local traditional authority and management system.

Evidence suggests that the community had no knowledge of the Wild Rice Harvesting Act (WRHA) which required users to make application to the MNR for a harvesting permit. Rather, a long-term local authority structure was in place. This local authority structure governed Manomin use and management. In addition, evidence suggests that local area MNR staff were unaware of, or considered extraneous, the long time community practice that was in place. Thus, a local system of authority and management existed in parallel to a provincial structure, with both parties presumably unaware of the other. The Mud Lake conflict represents a collision of these two systems.

The story of the Mud Lake conflict begins with the initial commercial harvest in 1979, the subsequent hearing under the WRHA, and the decision that followed. This period is characterized by an expectation that community wishes will be protected, once they are understood. The remainder of the study period has been divided into three sections, representing the real head to head conflict over wild rice/Manomin at
Mud Lake. The period from 1980 – 1981 is characterized primarily by a conflict, not so much about access, but about the granting of access to this local resource, to an outside party – expressly against the wishes of the local community. During this time-frame, the community endeavours to find a satisfactory working relationship with the MNR that will protect the continuation of local use, and management, as well as the long-term protection of the resource. The second period is the August – October 1981 standoff which represents the beginnings of community opposition, and resistance to MNR policy frameworks. The final period, 1981- 1982, marks the aggressive movement forward of the local community under the title IMSet (the Indian, Metis and Settler Wild Rice Association). While the community continues to seek a satisfactory arrangement with the MNR, their aggressive position on local management significantly impacts the final resolution of the dispute. Here, the dispute is recognized as being fundamentally based in MNR policy. The final resolution of the conflict is an accommodation, which provides for the critical positions of MNR and the community to be protected, while providing no resolution of the fundamental issues involved.

A special note must be made with reference to this chapter. At the time of the Mud Lake conflict, the term Métis was the only term with political salience for those without status, and recognition as ‘Indians’ under the Indian Act. Thus, the term Métis is used in various places throughout this chapter because it is the term found throughout the documentary sources used for this research. However, the Ardoch Algonquin community does not consider themselves to be Métis, a title that assumes mixed ancestry. Rather, the community is adamant in their reference to themselves as ‘Non-status Indians’ because intermarriage is not relevant to their identity as a community.
Collision of Interests (1979)

There has always been a question of how or why the MNR suddenly came to know about, and have an interest in, the wild rice at Mud Lake. A *Globe and Mail* editorial (Sept 8, 1981) suggests that, prior to the Mud Lake confrontation, Ardoch’s 100 or so residents requested that a dam be established to raise water levels on the Mississippi river to accommodate recreation and boating needs despite the fact that such an undertaking would completely wipe out the *Manomin* present in that water system. This article suggests that it was the MNR who sought to discourage this venture because of the threat to the wild rice stand. This would suggest that the MNR was already aware of the wild rice present on Mud Lake, though they had made no contact with local residents regarding its use. The article also implies that the MNR acted to protect this resource, in contrast to the ‘residents’ who had requested the elevation of lake water levels which would have destroyed the crop.

While this is one version of cause and effect, there are some problems I find readily evident in the logic. Firstly, I have some reservations about how the term ‘residents’ is being defined in this article. A Mississippi Valley Conservation Authority (MVCA) report on the proposed dam states in its introduction that the MVCA “has received several complaints regarding navigation problems due to low summer water levels on Mud Lake”. They continue that ‘cottagers’ requested the dam construction (Crysler and Lathem LTD 1979:1). In a September 3, 1981 presentation to Alan Pope (Minister, MNR post-1980), Bill Flieler (Reeve of Clarendon and Miller Township) stated that in 1979 due to the request of several people from the township “we hired a firm to do a study to raise the Lower Mississippi River” (Document 3:3). It is this that prompted the Crysler and Lathem
LTD report which found that raised water levels would wipe out the wild rice in the lake (Crysler and Lathem LTD 1979). As a result, the proposed dam was never undertaken. The MNR is noted as registering ‘stiff opposition’ to the dam proposal, in part, due to its potential environmental impact on the wild rice, walleye spawning sites, and waterfowl staging habitat which seems a logical concern within the MNR’s conservation mandate (1979). Furthermore, Harold Perry was also set against the dam proposal. In a documented oral history written at the time of the conflict he noted “I did not support the dam at anytime and was, I hope, partially responsible for it being turned down” (Document 4, 1980). Thus, while there seems to have been some community interest in raising water levels on the Mississippi there is no evidence that the whole community was behind such an endeavour.

Was it this proposed dam, which drew the MNR’s attention to the Mud Lake wild rice? There is considerable evidence in MNR files and newspaper reportage of interviews with MNR officials that the 1979 licence to harvest Mud Lake was granted to LWR to provide rice data for the Crysler and Lathem LTD report. The report does indicate that a licence was issued in 1979 as an “experiment to ascertain the value of the annual crop” (1979:19).

In addition, letters were exchanged in early 1980 between Mr. Richardson of LWR, and James Auld, which discusses a Research and Development Proposal for expansion of the Wild Rice Industry in Lanark County and Surrounding Regions (Document 5, Jan. 24, 1980). While this communication took place after the first wild rice harvest by LWR, and following the Ardoch community initial protests, they build on the fact that Mr. Richardson already had a prior history of harvesting wild rice in adjoining townships, and thus had a pre-existing relationship with MNR. A statement by Mr. Zarecki clearly states that they (LWR) had approached MNR about...
harvesting at Mud Lake after a conversation with a local resident who commented that rice was present at this site (Document 2, Dec. 1981:118). Thus, clearly, Mr. Richardson and Mr. Zarecki had direct involvement in the interest taken by MNR towards the rice at Mud Lake. However, I cannot ascertain which came first.

With reference to any ‘prior community interests’ in the wild rice, legal or otherwise, John Williamson (Fish and Wildlife Branch, MNR Tweed Office) stated that they (MNR) had no knowledge of anyone harvesting the rice prior to the conflict (Kingston Whig Standard (KWS), Aug.22, 1981). The confusion arose because local residents were unaware of their responsibility to obtain a harvesting licence. He indicates that when harvesting files where checked there was no record of prior use – a reflection of settlement history described in chapter four, which failed to recognize Aboriginal occupation as valid because their presence was not registered on the land patent maps. The purpose of the dam study, he suggests, was to address MNR’s concern for the rice in the event of dam construction. MNR staff state that the ‘permit’ issued to LWR was non-renewable, issued on a test basis only, for the purpose of the study (KWS, Aug.22, 1981). However, Mr. Zarecki stated that he understood that they had been granted a harvesting license, which would be renewed annually (Document 2, 1981).

That said, an article by Earl McEwen (MPP Frontenac-Addington) states that there was no discussions with ‘the township, the Indian people, or local residents’ about the proposed 1979 harvesting licence. He suggests that this gesture would have eliminated the conflict by providing critical information to MNR about the pre-existing history of Manomin management and use at the site (Tweed News, Dec.2 1981; Document 2, 1981). Furthermore, statements by community members at the two hearings suggest that the local MNR was well aware of the rice use in the area
prior to the conflict (Document 6, July 1980; Document 2, 1981). In fact, in his testimony at the second hearing in 1981, Harold Perry states, “I don’t see how they could possibly help it (knowing about the ongoing rice harvesting) because I was actually talking to some of these people” (Document 2, 1981:236). This seems a logical point since stories of Manomin are part of the regional lore as presented in the published oral histories of the region (Armstrong 1976; Armstrong 1982; and Stewart 1982). They (MNR) actively enforced other regulations (i.e. hunting and fishing), but did not bring the WRHA to the attention of the local residents, and users of the crop, presumably because it was not a priority before this timeframe.

It remains unclear who within the Ardoch community supported the water elevation project. It also remains unclear what first prompted the MNR to show interest in the wild rice at Mud Lake. It may be that seasonal users interests in the area drew the MNR’s attention to the location. It is also possible that Mr. Richardson was the first to bring MNR’s attention to the site.

However, a number of factors clearly influenced the MNR’s actions at this time. MNR had knowledge of Mr. Richardson’s intent to develop a regional wild rice industry. There was a larger movement by business interests in Ontario to open up wild rice areas formerly reserved for Aboriginal communities for economic development (Thurston, 1992; see chapter 3). MNR is on record as stating that their mandate is to develop natural resources within Ontario for the benefit of all Ottawa Citizens of Ontario. The previous chapter illustrates a long-standing history of neglect regarding Algonquin occupancy and rights with in the Ottawa valley. Finally, MNR assumed no local interests, either because of a failure to consider local use as a ‘prior interest’, or because of the lack of records under the WRHA. Thus, the MNR
went about its business of planning and licensing the wild rice on Mud Lake as a natural resource within its jurisdiction.

**Initial Conflict (September 1979 – August 1980)**

The initial response to the discovery of the commercial harvester was a series of calls and letters of protest and inquiry from various community members\(^1\). The result was a meeting with the local MNR (Tweed) staff on May 6, 1980. A letter to Mr. Vonk (District Manager: Tweed) from Harold Perry clearly communicates the emotion and strong beliefs expressed at this meeting:

> Aboriginal rights were mentioned at the meeting and have all the possibilities of a legal issue. Let this letter show on record that I Harold E. Perry lay claim to wild rice by Aboriginal right. As established at the meeting the very obvious wish of the local people involved is that the continued preservation and sensible management by the Indians and Metis... be maintained. …The total disregard by Natural Resources for the people who live here and rely on the rice... the failure of Natural Resources to notify the local residents and representatives, the secrecy of the operation, the failure to talk to the Indians and Metis who harvest the rice, the taking of such a risk on the only single rice bed in the region, the persistent efforts to try a second year without even an assessment of last years damage with total disregard to the residents wishes shows arrogance and incompetence by Natural Resources and is inexcusable. (Document 7, May 8, 1980)

The text of the letter clearly shows that subsequent commercial harvesting was under consideration by the MNR. In this letter, Mr. Perry recommends that the no further permits be issued until “claims, legal rights and liabilities are resolved” (Document 7, May 8, 1980). This letter is supported by a letter from the Township of Clarendon and Miller, and also by a resolution in Council for the Township of Palmerston, North and South Canonto (Documents 8 and 9, May 9 and May 13, 1980). In response to this adamant position by the local community, local staff chose to refrain from issuing

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\(^1\) For a “Who’s Who” of people and organizations involved in this conflict, see appendix 2.
a harvesting licence for Mud Lake for the subsequent year *(Ottawa Citizen, July 23, 1980).*

In addition to local level action, however, events were also taking place at the provincial level. Letters regarding wild rice production in the region were exchanged in early 1980 between LWR, Doug Wiseman, and James Auld. Following the initial 1979 harvest, but prior to the May 6, 1980 meeting between MNR (Tweed) staff and local residents, Mr. Richardson forwarded a letter to Mr. Wiseman requesting his assistance in facilitating the development of the wild rice industry in the region (Document 5, Jan. 24, 1980). The letter mentions the inclusion of a draft titled *Research and Development Proposal for expansion of the Wild Rice Industry in Lanark County and Surrounding Regions*². On Feb 25, 1980 this material was forwarded from Mr. Wiseman to Mr. Auld (Document 10, Feb 25, 1980). The cover letter requests Mr. Auld’s co-operation in having the proposal reviewed and expedited - if feasible.

In turn, Mr. Auld wrote to Mr. Richardson stating that the MNR was interested in the study. He indicated that the Lanark district office “will be pleased to work with you in identifying existing wild rice stands and to suggest discrete areas where experimental seeding would be allowed” (Document 11, Mar. 13, 1980). He noted that “your 1980 wild rice harvesting licence will be approved in specified areas in the Eastern Region where permission is granted by the District Manager” and that “the moratorium on wild rice harvest introduced in May, 1978 is still in effect and may restrict further harvest area expansion by your Company” (Document 11, Mar. 13, 1980).

² A copy of this document was not found. However, a later version titled *A Proposal for the Expansion of Wild Rice Production in Eastern Ontario* was located in AAFNA’s files. This proposal references a July 1981 newspaper article giving some indication to the time it was written. It is stamped with the name of David Punter, a researcher who presented on behalf of Lanark Wild Rice at the second
First Hearing (24 July 1980)

The contradiction present in the development of activities at the local and provincial levels led to a collision of interests for the 1980-harvesting season. The LWR application to harvest Mud Lake for 1980 was turned down by local staff following the May 6, 1980 meeting in Ompah between the local community and the local MNR (Tweed) office. The WRHA 1970 has provisions for an appeal under s. 3(5) stating “before refusing to issue a licence or cancelling a licence, the Deputy Minister shall cause an officer in the Department to hold a hearing to which the applicant or licensee shall be a party” (SO 1971 c. 50 s.88). As a result, a hearing was called on the matter for all interested parties to attend. It was scheduled to take place on July 24, 1980 in order that a resolution should be found prior to the harvest period during late August, and early September.

The hearing was chaired by W.A. Buchan, Regional Mining Lands Administrator, North-western Region (Kenora), an official familiar with wild rice issues in that region. Approximately 100 people attended the hearing with significant representation from the local community. Residents of the Ardoch region were notified of the upcoming hearing through correspondence, and were invited to offer their views on the harvesting licence (Document 12, July 15, 1980).

The Ardoch community spokespersons included Harold Perry, Chief Marsden (Chief, Alderville Indian Reserve), Bill Flieler (Reeve, Township of Clarendon and
Miller), Roy Shenaur, Joanne Eadon, John Savigny, Helen MacDonald, and Glen Manion (non-aboriginal residents). Their submission (Document 6, July 24, 1980) opened with a statement of the community’s distress at being ‘a third party to these proceedings’, and the lack of preparation time provided for the community to prepare their arguments for the hearing. Several critical players had very short notice to prepare for the hearing, including Mr. Perry, and Mr. McEwen who received notice on July 16th, and the township Reeve who had not received notice at all. They claimed that this ‘third party’ status prevented them from pursuing “a more vigorous defence of our indigenous rights to the rice and our concern for, the fish, and waterfowl of Mud Lake” (Document 6, July 24, 1980:2).

Their presentation then went on with, a Statement in Defence of our Indigenous rights and concern for the well-being of our culture, economy and environment (Document 6, July 24, 1980). The presentation was based on a number of key points: a history of Aboriginal occupation of the site; the oral history of the planting of the rice by an ancestor of Mr. Perry; the history of the Perry family and the ongoing planting and maintenance of the rice; the belief that the rice would die out without constant maintenance and reseeding because of the prevailing water current and winds; and the history of sharing without conflict between the Perry family, the Alderville Ojibwa, and the local non-aboriginal residents, especially during the Depression years. It also stated that the rice was doing poorly in the 1950s and 60s, and that the family had taken no rice for themselves, and worked instead to rejuvenate the rice beds through reseeding; that family efforts to rejuvenate the rice had led to the peak conditions of the rice bed in 1979; that LWR after harvesting did not engage could be looked to for more information on this topic.
In upstream reseeding; and that Mr. Perry undertook this activity (Document 6, July 24, 1980).

In reference to the WRHA, the document states that the Perry family had never applied for a licence because they were unaware of the need. However, it was felt that local MNR staff “who are normally quite efficient at holding local residents accountable, did not make Mr. Perry or the local residents aware at the time when the Act came into being or in subsequent years” (Document 6, July 24, 1980:2). They indicated that the long time traditional practice was known well in the area, and that the local MNR officials were aware of the rice, and the community’s relationship with it. However, they declared that the intention of Mr. Perry and the community was to abide by the regulations requiring application (Document 6, July 24, 1980).

The statement speaks to the meaning that Manomin has for the community. It expressed that Manomin “means more to our community” than it could to a commercial interest, and the rice has become an “integral part of our environment”. It articulated their belief that this relationship has led to a greater abundance of fish and waterfowl species in the region (Document 6, July 24, 1980:3). The document also referred to evidence presented by Dr. Isobel Bailey (Wetlands specialist, Department of Biology, Carleton University) who concluded that the ecology of Mud Lake was fragile, and that the non-indigenous rice must compete with local water plants. The community expresses their concern that the rice would eventually be depleted due to the stress commercial harvesting would place on it.

The document expressed a community concern for the preservation of the community’s lifestyle because the local economy was tied up with the fishing, duck hunting, and the natural setting of the area. Their fear was that the stability of the local economy and region could be threatened. The document expressed the
community’s desire to work ‘hand in hand’ with MNR in maintaining and preserving the local environment, and to protect the local culture and economy (Document 6, July 24, 1980). As a result they express their support for the MNR’s decision to refuse a Harvesting licence to LWR.

While a letter to Dr. Reynolds (Deputy Minister, MNR) from Mr. Buchan located in the MNR files states that a transcript of this hearing is available, no transcript was made available to me through the search of the MNR files (see discussion in methodology – appendix 1). However, the final report submitted to the Deputy Minister, MNR from Mr. Buchan details the presentations as he saw them. The following details the presentations made by all parties as seen by Mr. Buchan.

Firstly, Mr. Buchan states that John Williamson presented the Ministry’s position and policy regarding the situation, but provided no detail regarding the content of the presentation. A presentation by Mr. McLean, solicitor for LWR, followed. His presentation detailed the history of LWR operations from 1974 to present, including the 1979 harvest at Mud Lake of 5,300 pounds of rice. The report also reports that a 1980 ARDA grant for $40,000 was given to LWR “to conduct studies over three years on the wild rice potential” in the region (Document 13:2), that LWR has a ten year history of such research in Manitoba, Minnesota, and Ontario, that a maximum mechanical harvest yield would take approximately 40% of the available rice and that the remaining 60% would be more than adequate for reseeding and the feeding of fish and ducks. The report indicated that the flail system (traditional method) does more damage and yields less than mechanical harvesters.

McLean also reviewed the MNR Policy in terms of the 1978 moratorium, suggesting that the terms of this moratorium did not, in his estimation, apply to existing licences. He noted that LWR had held a licence for all of Lanark County
since 1974, and that they had given up their block licence in favour of an ‘area specific licence’ which included the Mud Lake area as suggested by regional MNR staff. He argued that this did not represent a ‘new licence’, and therefore did not violate the terms of the moratorium. Mr. Buchan noted that LWR showed no incompetence or misdoing, and that they had an ongoing history of co-operation with MNR clearly indicated through the documents provided in their presentation.

Mr. Buchan then noted that the floor was opened to the local community, beginning with Harold Perry, who presented on his family’s involvement with the rice over time, the fragility of the rice bed, and his indigenous rights. Chief Marsden presented on the history of flooding on Rice Lake, and the availability of rice in other areas along with his community’s rice needs. Both presenters were noted as stating their lack of knowledge regarding the WRHA.

This was followed by the Reeves of the townships involved presenting on their views and objections to commercial harvesting, and by Roy Schonauer (a local muskrat trapper) and his concern about the effect of harvesting on the muskrat population. Mr. Buchan notes that he feels this later impact is “debatable by experts I am sure” (Document 13:4), clearly implying a lack of legitimacy on the part of Mr. Schonauer’s concerns.

Mr. Buchan stated, “The major theme of the objections was that the harvest by commercial methods would affect the local pickers, muskrat population, and duck feeding beds. As the communities depend on the tourist traffic, fishermen, and duck hunters, for their livelihood, the wild rice beds were felt to be a major part of the overall plan” (Document 13:4). He noted that this same community supported the dam construction, which would have eliminated the rice beds (note: see discussion p. 6-10, this chapter). Mr. Buchan noted that the local people are ‘fine, proud people;
proud of their heritages and extremely possessive of their surrounding lands’. He stated “emotions were controlled but were strongly evident during the hearing” (Document 13:4).

The final submission-proposal by McLean for LWR proposed an application for mutual use, and continuing use by local peoples. Local residents scoffed at these future plans, including a processing plant. However, LWR indicated that the local people could be involved in the harvest and processing of the rice.

In conclusion, the Buchan report recommended that the LWR application for the 1980 season be approved (Document 13). He also recommended that the Métis families, and the local residents be allowed to harvest their requirements through the application of a licence, and that these two parties “be given first opportunity to outline the area of their choice for picking” (Document 13:5). He indicated that the company should be granted the areas not designated for private use. Mr Buchan found that Harold Perry was the only testimony of ‘valid private consumption’, but that his interests were served by the proposed recommendation. He found that the moratorium had no basis in this matter, and that the 40% commercially harvested vs. 60% remaining yield, presented by the specialists for LWR, provided plenty for natural seeding, and for other users. Mr. Buchan commended the local MNR staff for their behaviour in co-operating with all of parties involved. He noted that it was time policy was developed for such cases, and that while the question of Indian rights to wild rice had not been documented, neither has it been refuted. He indicated that these rights should be established ‘once and for all’ (Document 13:6).

After consideration of the report, the Deputy Minister, Dr. Reynolds, still chose to deny a harvesting license to LWR for 1980. This decision, dated Aug. 15, 1980, was based on two points: 1) 5 year moratorium on additional licences; and 2) this
would constitute an additional licence. He also noted that the WRHA 1970 made provision for appeals (Document 14). The Deputy Minister’s decision made it possible for the community to harvest the 1980 crop, although Harold Perry and other community members were now required to apply for a harvesting licence. Despite complaints from LWR that the rice was going to waste, a Nov. 7, 1980 letter from Deputy Minister Reynolds to Mr. McLean, stated that as a license had been issued to the Alderville status ‘Indians’ who harvested approx. 700 lbs, and as Mr. Perry harvested as well, the rice was not ‘entirely wasted’ (Document 14).

Clearly, two sets of events were taking place. At one level, discussions were proceeding regarding MNR/LWR co-operation in developing a wild rice industry, while at other levels MNR discussions were prompting a decision not to move forward with licensing Mud Lake. Either these reflect inconsistencies within the Ministry, or they represent an ongoing attempt to diffuse conflict, and mollify the various parties. Following this apparent resolution, events propelled the conflict forward.

**Challenge for Access (September 1980 - July 1981)**

This period began a process of manoeuvring by LWR for the upper hand - drawing on political power to gain access to the wild rice at Mud Lake. Ministry staff (under the signature of James Auld) corresponded with parties in the dispute, stating the Ministry’s position on the Mud Lake. In a *Tweed News* editorial, Earl McEwen, reported that these letters stated no licence would be issued until 1983 due of the moratorium (Dec 2, 1981). However, a series of letters between James Auld and LWR influenced this position.
On September 29, 1980 Doug Wiseman asked for a ministerial order of the MNR to grant a licence to harvest the Mud Lake wild rice to LWR. He addressed a number of reasons why this should take place, including that the community (Métis and other) could harvest their needs through a personal use harvesting license, that LWR has received $40,000 to improve harvesting in south-western Ontario and want to establish a plant for processing in the region, and because traditional harvesting methods were insufficient in harvesting the wild rice, allowing for a significant waste of the resource. In support of this statement Wiseman stated that Mr. Richardson and his partner had flown “over the area and paddled through most of the area and observed that forty-fifty per cent of the rice was ‘floating in the water’ and hadn’t been harvested by anyone”\(^3\) (Document 15, Sept. 29, 1980).

In response, a meeting was held on Nov. 27, 1980 between Mr. Auld, Mr. Wiseman, and Mr. Richardson of LWR, and several MNR staff members (Bill Foster, Ted Richardson, Rod Stanfield), leading to a revision of the Deputy Ministers decision citing the recommendations of the Buchan Report as justification (Document 16, Sept, 1981). As noted in Earl McEwen’s article in the *Tweed News*, the local Aboriginal and non-aboriginal community were not notified of this meeting, nor were they notified of the change after the fact (Dec. 2, 1981). Shortly after this November 1981 meeting, James Auld retired from the Ministry for health reasons, and was replaced by Alan Pope (*Globe and Mail*, Jan. 28, 1981). Mr. Pope was the Minister of the MNR for the remainder of the conflict period.

\(^3\) Note: Wild rice does not float due to its unique physiognomy. For a discussion of the nature of wild rice see chapter 3, especially p.33-34.
Interestingly, the possible lack of communication within different departments of the Ministry exhibited in the earlier documents is reinforced at this point. A May 6, 1981 memo to a Mr. Dixon (Assistant Deputy Minister, Southern Ontario) from J.R. Oatway outlines several options for dealing with the Mud Lake issue: 1) reverse the Deputy Minister’s decision and grant a licence to LWR; 2) refuse to licence LWR based on the moratorium with the understanding that a licence would be granted to them after moratorium is over; and 3) divide Mud Lake into harvest areas or harvest dates for multiple users. Recommendation 2 is the one supported in this memo stating “the local and not so local Indian bands have indicated that they intend to exercise their rights to harvest the Mud Lake rice in 1981. While I doubt if this will be the case, any move to licence the lake to Lanark Wild Rice will give them further cause to claim rights to all wild rice beds” (Document 17). This was followed by a June 29, 1981 letter thanking Oatway for these options but notifying him of the new decision based on Sept. 29, 1980 meeting (Document 18). The fact that news of the change of status in regards to the issuance of licence took six months to filter from the senior levels of the Ministry is significant. It was not until July 1981 that a memo was sent to Oatway indicating that he was to issue a licence if LWR applied for one - possibly delaying the harvest date until after the time frame for local use permits (Document 16). As a result, the local residents were not informed of the change until the harvest season was approaching.

Community Resistance (August 1981 - October 1981)

When Harold Perry went to collect his harvesting licence for the 1981 season he discovered that the lake had been zoned, and that a commercial license would be issued to LWR for a portion of the harvest area. He had not been made aware of the
new situation until that time (Document 3, Sept 3, 1981). A Sept. 8, 1981 *Globe and Mail* editorial states that the local MNR knew that the ‘shit would fly’ when the community heard the news. Tweed (MNR) representatives told the local people that it was ‘a political decision’. That decision, Liberal MPP McEwen suggested, was in favour of conservative Doug Wiseman who supported the LWR development (*KWS* Aug 24, 1981). The result was a division of the lake into three zones: one for the Métis, one for other users, and one for commercial harvesting.

Initially, Harold Perry refused to pick up his harvesting licence for the portion of the lake allocated for his use. However, he changed his mind, and did so with the inclusion of a letter of protest (Document 19, Aug 18, 1981). In a letter to Mr. Vonk, Perry stated that he was obtaining a wild rice harvesting licence under protest. He reiterated the history of cultivation by his family and the shared use of the rice with Indians of Alderville, and with non-aboriginal neighbours of Ardoch. He also strongly protested the zoning of Mud Lake for harvesting which “will destroy the spirit of wilful sharing” that had been previously practised. He states,

> I will receive my licence under protest and inform you that I intend to use whatever legal means possible to change these policies. I want you to be warned that political, public and legal means will be brought to bare on your Ministry as well as the current government in order that our heritage and rights are protected on Mud Lake (Document 19, Aug 18, 1981).

Community resistance then moved in to high gear drawing support from a great many sources. Over the subsequent month, public awareness was encouraged through the media (i.e. UOI, Press Release: Aug. 7, 1981 - Document 20). In addition, the MNR received numerous letters challenging their decision to issue a permit for Mud Lake (Document note 21). Letters were received from the two regional Townships (Clarendon and Miller, and Palmerston, North and South Canonto), and from the Mississippi Valley Conservation Authority. In addition,
letters supporting the local community, and challenging the MNR’s decision were received from Earl McEwen, and Floyd Laughren (MPP Nickel Belt), the Kingston Industry and Tourism Committee endorsed by Kingston City Council, as well as numerous individual citizens\(^4\). Support was also expressed from Aboriginal Organizations. Letters were received from Grand Council Treaty 3, the Union of Ontario Indians (UOI), and the Chiefs of Ontario.

Despite this public response, LWR was issued a licence on August 19, 1981 to harvest an allocated portion of the wild rice on Mud Lake. The following day, the community erected tents, with a 24-hour watch posted to watch for the harvester (Ottawa Citizen, Aug 21, 1981:3, 16). Protest letters were sent to MNR, and the community issued a press release (Document 22, Aug 20, 1981). This press release clearly states that the community is at odds with the policies of the MNR, and are present to “resist any attempt to launch a commercial harvesting vessel” (Document 22:1). They indicate that they will undertake a 24-hour patrol of the site, and will “return in mass to non-violently impede its operation” (Document 22:1).

The document was clearly intended to provide as much material as possible to inform the media, and public of their views. It included a brief history of the Ardoch Manomin, and of the developing conflict. A section explaining the community’s position, and the points of their argument supporting that position led into a direct statement of their intentions to resist the MNR and the commercial harvester:

In order to resist this ‘taking’ we will use legal, political, and civil disobedience to accomplish our resolve. Henceforth, until the harvest is over, we will join with our Indian friends in patrolling the lake and confronting any attempt to harvest rice for commercial purposes.

\(^4\) The names of private citizens in the MNR archived files were not released due to privacy legislation.
Finally, the document included the community submission to the July 24, 1980 hearing, and the letter submitted by Harold Perry with his licence permit in order to show the passion, and strength of their conviction.

At the Provincial level, a special meeting of the Indian Commission of Ontario (ICO) was called on August 21, 1981 at the request of the UOI to discuss the Mud Lake situation (Document 23). Representatives attended on behalf of the ICO, the Federal Government, the UOI, and Mr. Oatway representing Ontario. The meeting notes are terse, and to the point. Mr. Madahbee (President, UOI) spoke regarding the history of the Mud Lake situation, detailing the concerns of the Aboriginal peoples: that the license was issued contrary to the moratorium; the license was granted without consultation with the community; that “Indian people feel that it is their right to harvest wild rice”; that the crop is insufficient to address the needs of local people much less a commercial enterprise; that mechanical harvesters jeopardize the viability of the crop taking too much for reseeding causing the need for reseeding by Harold Perry; and that the local economy is dependent on the tourism trade which itself is supported by Manomin.

On behalf of OMNR, Mr. Oatway countered this presentation: he explained the development of the Mud Lake situation, detailing the history of LWR; the 1979 letter of permit in response to the Dam proposal; the hearing under the WRHA and subsequent decision to deny a licence; and the ministerial decision by James Auld to over-rule that decision. He indicated that the granting of the licence was consistent with OMNR policy of developing resources “to the fullest extent for the benefit of all Citizens in Ontario” (Document 23:4). He noted that licences had been issued to Harold Perry and other Bands who have applied for 60% of the crop, and that he
hoped this would provide for more effective use of the crop than had been the case in the past.

The parties agreed that there was a difference of opinion regarding the applicability of the moratorium to this situation. Mr. Madahbee expressed his concerns over the potentially explosive situation created by MNR’s decision, while Mr. Oatway indicated that the licence would remain in effect. The parties agreed that there was little that could be done regarding the likely conflict because the positions of the two sides were so opposed. Mr. Oatway declared that he would bring this discussion to the attention of Mr. Pope later that day, while Mr. Madahbee declared that he would pursue the matter in more detail with Alan Pope himself (Document 23).

An August 21, 1981 status report on the Mud Lake conflict found in the MNR files detailed the situation from the Tweed district staff (Document 24). It noted that the Tweed district staff had divided Mud Lake into two harvesting zones - one for commercial harvesting, and one for local and Indian use. It also noted that the district staff had applications from LWR, the Alderville, Tyendinaga, and Golden Lake bands, and nine applications for personal use from local residents. LWR was issued a licence on Aug 19, 1981 to be harvested the week of Aug 24, 1981. Protest demonstrations were expected, and it was noted that the local residents of Ardoch were very upset with the commercial harvest. Harold Perry had gone on record as saying that there would be a confrontation if the harvester were brought to the area. The District staff noted that LWR would advise the MNR before moving to harvest (Document 24).

Letters of support for the community continued to be sent, in an effort to halt the inevitable conflict. Earl McEwen in an interview with the Kingston Whig
Standard (KWS), criticized Alan Pope for his disregard for the moratorium and local sentiment, and for failing to be available to discuss the matter with Mr. McEwen himself (KWS, Aug. 24, 1981).

While political efforts continued, the Ardoch community was a site of growing tension, the details of which can only be found in newspaper reportage, and letters written after the fact by individuals present at the time. Tents, and a 24-hour watch were put in place on Aug. 20 (Ottawa Citizen, Aug. 21, 1981). On Aug. 24 and 25th Mr. Zarecki toured the area to evaluate the crop but was intimidated by the presence of protestors (Ottawa Citizen, Aug 28, 1981). He was able to assess the readiness of the crop on Aug. 25, with the assistance of an OPP cruiser (Ottawa Citizen, Aug 31 1981:1). Harvesting by Aboriginal people from Alderville was initiated but was halted because the crop was as yet too green (Ottawa Citizen, Aug 31, 1981). On Aug. 28 protesters erected log barricades at the access points to Mud Lake (Ottawa Citizen, Aug 28, 1981).

A first attempt to approach the lake with the mechanical harvester, accompanied by two OPP cruisers, turned back on Aug 29 due to fears of conflict. Local residents blocked the access with their cars, and intimidated Mr. Zarecki, and Mr. Richardson by taking photographs (Ottawa Citizen, Aug 31, 1981; KWS, Aug 31, 1981).

**Stand off (30 August 1981)**

On Aug 30, the standoff that had been expected occurred, and was quickly nicknamed ‘the rice wars’ by the media. Much to the shock of those involved, Mr. Zarecki, and Mr. Richardson arrived with the mechanical harvester accompanied by a large force of OPP officers, and MNR staff (Ottawa Citizen, Aug 31). Early Sunday morning, the OPP erected roadblocks that prevented access to Whispering Pines Road
that runs the length of Mud Lake (see figure 12). It was necessary to find an alternative access point to allow the mechanical harvester to be put into the water because of the log blockades. It was thought that the Whispering Pines road allowance might reach the water’s edge at its narrowest point, which would allow the harvester access. The Ministry blockades restricted access to the lake, including media access, and resident movement to and from their homes. This action angered the local community who felt that their wishes were to be brushed aside, with force if necessary (Ottawa Citizen, Aug 31 1981).

In response, residents took to the water in boats and canoes to protect the rice causing considerable concern for their safety (Ottawa Citizen, Aug 31; KWS, Aug 31, 1981). After the OPP located the narrowest point, the residents who were present insisted that the distance between the road and the water be measured. It turned out that the distance exceeded the road allowance by less than a meter (Ottawa Citizen, Aug 31 1981; KWS, Aug 31, 1981). The resident landowners of that stretch of property refused the harvester permission to cross their private property. When it was clear that there was no legal means to gain access to the river the OPP withdrew. LWR gave up around 2:30 pm (Ottawa Citizen, Aug 31, 1981; KWS, Aug 31, 1981).

The number of officers present, as well as their behaviour, caused a significant amount of discussion in the Newspaper coverage of the event (Ottawa Citizen, Aug 31, 1981; KWS, Aug 31, 1981; Perth Courier, Sept 2, 1981; Globe and Mail, Sept 2, 1981). The Perth Courier sighted local criticism that the ‘show of strength’ was ‘unnecessary intimidation’ (Sept 2, 1981:1, 25). Their presence also initiated several letters of protest to Mr Pope, and Mr. Davis (Premier of Ontario). A telex by Robert Lovelace (Sharbot Lake Ontario Community Legal Worker, North Frontenac Community Services) to Premier Bill Davis stated:

It was argued that the ‘military force’ was inconsistent with the scale of the non-violent protest. Local area MP Bill Vankoughnett stated, “the exercise bore little comparison to the value of the crop” (KWS, Aug 31, 1981:13). He indicated that the licence had been granted for a fee of $1.00.

While no one was injured, OPP police cruisers passing the blockades aggressively pushed their way through the crowd of residents present at the roadblocks. Two residents were detained in a ‘paddy wagon’ for the duration of the blockade but were later released. Duke Redbird, representing the OMNSIA, suggested that the response was so extreme that it was possible the action was a test case for the larger issue of native rights (KWS, Aug 31, 1981).

In response, the OPP justified their action by stating that it was their job to defend the peace. They stated that, considering the numbers present at the site, a strong force was needed to ensure that violence did not result, and that public and private property were protected (Ottawa Citizen, Aug 31, 1981). When interviewed, OPP officials doubted that the same force would be provided a second day. Mr. Perry, on the other hand, was not convinced that the struggle was over. He said “I think it’s going to be the whole thing again tomorrow. There’s going to be a fight all the way until the rice is over” (Ottawa Citizen, Aug. 31, 1981:5).

With no way to gain access to the lake, LWR had no means of collecting the rice granted through the harvesting licence for the 1981 season. In response to the standoff, Alan Pope met with a group of residents and native groups in Toronto, on September 3, 1981 (Document 3). At this meeting the community again presented
their case. First, Barbara Sproule (Reeve, Palmerston, North and South Canonto) spoke regarding the history of the rice and the link the rice had to the local wild-life. She spoke of the relationship this had with the tourist trade, stating its importance to the economy of the economically depressed area. She stated that residents were fearful that the impact of commercial harvesting would be devastating to the local economy. She stated clearly that the community is not interested in the commercial development of the rice bed, but that their wish was for it to remain as it had been.

Harold Perry once again detailed the relationship his family had with the rice, the planting of the rice and tending of the beds, and the responsibility he felt to his daughter, and to his ancestors to protect the rice. He stated unequivocally that the commercial development of the rice bed was against the will of the people. He chastised the MNR for not consulting with the community beforehand. He stated, “I am against this zoning by-law. I helped plant this rice, cultivated it, so I feel I am in a position to harvest it” … and further “I am in a position where I am responsible to my ancestors and to my daughter. They put their trust in me and I don’t want to let them down” (Document 3:1).

Robert Lovelace then detailed the development of the situation, how they had not been notified of the change of decision, and that the community had decided, “to guard the lake and stop trespassers and commercial harvesters from entering” (Document 3:2). The group presented their position that since a licence had been issued, the community was willing to share, but only on the basis that LWR harvest in a canoe, using the traditional method, and that no commercial harvesting should be permitted after 1981 (Document 3). They also informed Alan Pope of their interest in forming an umbrella organization of Aboriginal, Métis, and non-aboriginal residents to manage the Manomin at Mud Lake. They were adamant that they did not want to
have a confrontation with LWR. It was their understanding that LWR would try to harvest the following day. After much discussion, Mr. Pope stated that he would provide an answer on the following day.

The resident group was cautiously optimistic following the meeting. However, when the written response from MNR was received it did not indicate the consensus that the community had thought had been reached (Document 26, Sept 16, 1981). Rather, Mr. Pope reiterated that the province had the responsibility to develop wild rice for the benefit of all of the Citizens of Ontario, stating he was responsible to obtain the maximum economic benefit, and to guarantee a rational and responsible system to ensure a sustained yield. He stated that he could not interfere with a licence once it had been issued. He commented on the idea of an umbrella organization, suggesting that it “will create jobs and economic opportunities for the people in the area, this would appear to fall within all our priorities” (Document 26, Sept 16, 1981). He indicated that he would order a hearing on the matter in the fall.

After consideration of Mr. Pope’s response, Bob Lovelace, on behalf of the local community, sent a letter to Alan Pope indicating that his September 4 telex was not acceptable to the community (Document 27, September 25, 1981). He stated, “commercial harvesting of wild rice is not the only option for obtaining maximum economic benefit to our area” (Document 27:1). He drew attention to Mr. Pope’s failure to consider fully the statements made surrounding the established Moratorium. He noted that the telex “did not reflect our representation of Mr. Perry’s indigenous rights to the wild rice on Mud Lake” (Document 27:2). He also indicated the community’s desire to participate in the upcoming hearing.

The community decided to move forward with the formation and incorporation of a community group called the Indian, Metis, and Settlers Wild Rice Association
This organization was to have equal representation by three distinct cells representing the three major players, ‘status Mississauga’, Métis and ‘non-status Indian’, and non-aboriginal residents each with their own philosophy and mandate (Document 28, September 29). On October 7, 1981 they issued a press release (Document 29) giving notice of the incorporation of IMSet for the purpose of protecting the rice from commercial harvesting, co-ordinating an extensive domestic harvest, exploring the possibilities of using the resource more effectively, and to generally increase awareness of the cultural aspects of *Manomin* harvesting. Their first task was to prepare for the upcoming fall hearing.

The second hearing under the *WRHA* represents the final episode in the chronology of the Mud Lake dispute. It marked the organization and aggressive forward movement of the local community under the title of IMSET. This position significantly impacted the final resolution of the dispute. From this point on, the community took an aggressive position, refusing to allow MNR an unchallenged position of authority over the *Manomin* at Mud Lake. Here the dispute is no longer between the community, and LWR. Rather, LWR fades in significance as the vehicle through which the dispute has transpired. Rather, the dispute is recognized as being fundamentally based in MNR policy.

**Second Hearing (30 November – 1 December 1981)**

The Second Hearing took place on November 30, and December 1, 1981 (Document 2). The two-day event contained a triad of representation. Wynn Vonk representing the Ministry’s interests had an inconsequential presence, for the most part, providing only minimal input into the basic mandate and policies of the
Ministry. LWR was represented by Cliff Zarecki, and was supported by Dr. Punter from the University of Manitoba. Finally, Robert Lovelace was the legal counsel for IMSel, and was the orchestrator of the local argument put before the Commissioner. He was assisted by a large number of local residents, and other support persons. Mr. Lovelace introduced each person speaking on behalf of the local community, and was the primary representative for this group in asking questions of those making statement on behalf of the local community, or of those presenting on behalf of LWR. The Commissioner, seeking to maintain an informal structure, and to glean as much insight as possible into the best method of managing the wild rice at Mud Lake in the future, permitted questions from the floor at frequent intervals.

While all of the ‘community’ presentations came out in support of the local position to protect local interests on Mud Lake, there was no simple binary division in the presentations put forward. Some parties fundamentally opposed MNR authority over the Mud Lake Manomin, and in contrast supported Aboriginal rights to its management and use. In contrast, some presenters did not explicitly oppose MNR authority, but expressed a concern regarding the stability of the local ecology, and the continuity of the local economy with its significant reliance on the hunting and fishing sectors. I have attempted to illustrate these divisions where possible.

**Lanark Wild Rice**

The LWR position was presented by Cliff Zarecki and Dr. Punter. There were two aspects of this position. Firstly, Mr. Zarecki (Document 2) countered statements made in the press that suggested that LWR was a big business seeking to make a profit off of the backs of local residents. He stated that he and Mr. Richardson were ‘just two guys’ trying to make a living. He also reiterated his desire to work co-
operatively with local residents in developing the wild rice industry in the region, suggesting that there was the potential to eventually employ 30-40 families. He also challenged the notion presented in the press that mechanical harvesters are damaging to the crop. He stated that they have been used since 1917 and believed it to be “a proven fact that wild rice harvesting have never destroyed a wild rice stand” (Document 2:11). Furthermore, he challenged the notion that mechanical harvesters strip rice beds of all available rice. He countered that in a good year they are able to harvest up to 17% of the available rice, leaving plenty for other users, for reseeding, and for wildlife, contrasting significantly with the 40% suggested at the first hearing. He noted that there was great potential for seeding new beds in the region that would increase the available rice considerably. Finally he stated that if MNR choose to support the local community, that LWR would continue to be seen as the villain they were portrayed as in the press. He suggested that no matter what their past record, they would have problems in other lakes because of the bad publicity they had received.

Dr. Punter made the second part of the LWR presentation (Document 2). He presented information compiled and prepared by a graduate student under his supervision. This work surveyed the rice on Mud Lake. They made an estimate of the available rice as well as the efficiency of mechanical harvesters. One aspect of the presentation was that the rice bed was in need of proper management techniques because it was not producing to maximum potential. The research suggested that some portions of the lake were so dense with rice that it impeded the overall development of each plant. His recommendation was that a proper management plan for the rice would include thinning these dense patches for maximum efficiency. The research also suggested that too much biomass was accumulating on the lakebed
causing a stultifying effect, which would be reduced by a more efficient method of harvesting. Dr. Punter spoke about an ARDA grant received by LWR, and Dr. Punter in order to do scientific research into the potential to increase wild rice production in the area. In the end, the presentation suggested that the LWR/Dr. Punter team had the scientific expertise to be the best managers of the Mud Lake wild rice crop.

Ministry of Natural Resources

Wynn Vonk briefly answered questions on behalf of the Ministry (Document 2). He stated the Ministry’s mandate “to manage natural resources for all the Citizens of Ontario” (Document 2:244). When asked if MNR had a policy to get the maximum sustainable yield he stated that there was no such blanket policy. He indicated that each resource was unique and was also dependent on “how the politicians interpret the benefits for the people of Ontario” (Document 2:244). The MNR did not submit a brief to the Commissioner leading the hearing. Mr. Vonk indicated that while the Ministry had no specific plans, they would do all they could to avoid further confrontation over the wild rice at Mud Lake.

Local Interests

The local argument included presentations by political figures (i.e. the local representatives to the provincial and federal parliaments), members of the three cells of IMSet (status Mississauga, Métis and ‘non-status Indian’ peoples, and the local non-aboriginal population), the Mississippi Valley Conservation Authority, and the Association of Anglers and Hunters. Also addressing the hearing were the Reeves of the townships of Clarendon and Miller, and Palmerston, North and South Canonto. Harold Perry was present in the company of his lawyer, Mr. Dewhurst. There were also a number of people from the Mississauga reserve communities. Also in
attendance was Chief Earl Hill (Chief, Tyendinaga Reserve), and Alan Roy (UOI). Finally, the local community was supported by a number of specialists including Dr. Bristow, an aquatic plant specialist in the Biology department, Queen’s University, Dr. Laureen Snider, Department of Sociology, Queen’s University, and Dr. Isabelle Bailey, a wetlands specialist in the Department of Biology, Carleton University.

**Local Interests (Non-Aboriginal Residents)**

The Association of Anglers and Hunters commented through Mr. Odette (Document 2). While they did not dispute MNR’s mandate to manage resources within the province, they did have a concern that community and waterfowl needs be considered prior to any commercial needs. They were not averse to commercial harvesting in principle, but suggested that new beds be seeded for the purpose so that there were no grounds for contention. They further supported that the local peoples’ use should come first, then the wildlife, and then could be harvested commercially if enough rice remained to support such a venture.

Winton Roberts, a resident of Palmerston Township submitted and gave a summation of a letter on behalf of the Mississippi Valley Conservation Authority (Document 2). The Conservation Authority reported that they had been involved in a great deal of conservation work over the years, including seeding of the *Manomin* beds. They indicated that they believed the rice on Mud Lake should be used for traditional and domestic use only, and that they were against a commercial harvest of this site. They also stated that they would help IMSet to manage the rice bed if MNR granted them (IMSet) sole harvesting rights.

Reeves of the local townships, along with Mr. McEwen, Mr. Gorham (Conservative Candidate), and Mr. VanKoughnet (MP) addressed their concerns as
political representatives for the local people. Mr. McEwen (Document 2) addressed the fact that a commercial licence had been issued without any form of local consultation. He detailed that letters under Mr. Pope’s signature had been sent to local residents stating that no licence would be issued until 1983, and yet a licence had indeed been issued. He was also deeply concerned about the high cost of the consultation process, and the cost of personnel and resources during the standoff, in comparison to the $1.00 license fee. He suggested that moderate sales to local residents were a viable option. However, he was adamant that the rice, planted by the Perry family, and nurtured for generations, should be left to them. He was not entirely against commercial harvesting but suggested that those wishing to harvest should seed new sites under the direction of MNR for their own use so that they do not interfere with existing use.

Mr. VanKoughnet said that he had pursued the matter with the Department of Indian Affairs but noted that they did not have jurisdiction because Ardoch was not a treaty area. He was surprised that a new licence was issued when the first hearing had seemed to resolve the dispute. He expressed his shame at the tactics that had been used against the community during the standoff, when they had resorted to action only because they were without power to influence the situation otherwise. His position was that the rice should be left for the local people since they had themselves successfully planted and nurtured the crop for many years. He did not feel that this point should be ignored (Document 2). Mr. Gorham reiterated that the Perry family had already managed the Manomin on Mud Lake for 100 years and had proven themselves capable of maintaining the resource. Furthermore, he stated that he did not want to see the rice destroyed. Since Mr Perry had a proven track record of
maintaining the rice crop year after year that he should continue to manage it, especially since he had the greatest interest in its survival (Document 2).

Bill Flieler spoke about the good relationship the community had had with the MNR, and the history of consultation that had been part of that history over time. He then spoke of a shift in policy with the closing of the Ranger Station in the area. Since then, he reported that there had been no consultation with the community, and that new restrictions and policies continued to be implemented and then fought by the community, the rice conflict merely being the most recent case (Document 2). He also addressed that this was not only an issue of consultation and local interest, but also an issue of Aboriginal Right. He stated, “this rice was established by the Indians, it has been cared for over the years by the Indians, and it’s my opinion that their rights should be recognized in this case” (Document 2:120). He stated that he believed IMSet would protect and provide for the rights of the Aboriginal users and that they should be given authority over the Manomin on Mud Lake.

Barbara Sproule echoed the sentiments of Mr. Flieler. She indicated that the local communities had contributed to many conservation initiatives over the years. She stated her displeasure that the same cooperation was not extended by MNR when it was the local community that was interested in the conservation and protection of a resource (Document 2).

Local Interests (‘Status Indian’ Representatives)

There were also a number of people from the Mississauga reserve communities who came to present. These included Chief Glen Marsden, John Crowe, and Mel Smoke from Alderville, his son Randy Smoke a resident of Gores Landing, and Murray Whetung from Curve Lake. These participants provided confirmation of Mr.
Perry’s historical accounts of long-term status Mississauga harvesting at the site, that Mr. Perry would invite them to come to harvest when the crop was near ripe, or tell them if it needed to rest. They emphasized the cultural importance of the *Manomin* harvest to the Mississauga people, and the importance of this site due to the destruction of the rice at Rice Lake, and the absence of other secure and accessible sites to harvest. Chief Glen Marsden stated that he believed the rice at Mud Lake should be reserved for traditional use only. John Crow discussed Aboriginal cultural values in relation to *Manomin* (Document 2). He spoke emphatically about rice as a gift from the Creator that was not to be sold. Melvin Smoke added that many used to harvest another site at Calabogie but that once LWR began harvesting there it was no longer worth their effort because Mr. Richardson harvested before the Mississauga felt the rice was ready. By the time they did harvest, there was almost no rice remaining on the stalks (Document 2). They all reported on the Perry family as stewards and managers of the rice, and their ongoing efforts to maintain a healthy and abundant crop. They also declared their belief that harvesting should be reserved for the local people who took care of it, and “their invited guest – the Indian” (Document 2:194). In addition to the Mississauga contributions, Chief Earl Hill commented on his community’s efforts to get *Manomin* established on their reserve. He proposed that his community would like to use seed from Mud Lake in their efforts (Document 2).

Alan Roy, a wildlife biologist with the UOI spoke at length of the historical relationship between the Mississauga people and *Manomin* (Document 2). He stated that *Manomin* was seen a gift of the creator, and the elders would not allow it to be purchased. He detailed the cultural protocol involved in the rice harvest including the offering of tobacco, and the role of the elders. He said that even seed could not be
purchased and must be arranged only through elders in a deeply respectful and
ceremonial exchange. Mr. Roy spoke of the loss of the rice harvest as a critical loss
for the people, and that any opportunity to provide for the rejuvenation of the practice
would benefit Aboriginal communities. Several elders and communities had spoken
of the desire to re-establish the tradition, especially as a teaching event for children,
and as a cultural tradition.

Mr. Roy also addressed the issue of interconnectedness between all life, and the
need for the people to be reconnected with their heritage and their environment. He
stated that the elders had been instructing for some time that the rice harvest was a
means of tying the people to the land and urging people to get involved in the rice
harvest. Mr. Roy reported that, through his work with the UOI he had done a survey
of potential sites for Manomin and had provided communities with information about
the presence of Manomin, especially at Mud Lake where there was a positive social
system in place. He proposed the development of a cultural training initiative that
would provide a much needed cultural revitalization. He also proposed the harvesting
of rice for seed purposes, which would then be provided to seed new rice beds for
Aboriginal Communities, as well as for commercial harvesting.

**Local Interests (Technical Support)**

The community, in addition to the ample support provided by its members,
sought and received assistance from a number of specialists from Queen’s and
Carlton Universities in order to engage in the technical discussions introduced by
LWR and MNR. Dr. Bristow, Dr. Laurreen, and Dr. Isabelle Bailey were present at
the hearing to provide expert testimony on Manomin and the local community.
Dr. Snider explained that she had worked for some years in the local area and had a feel for the nature of the community. She felt that the Manomin had become a symbol of a way of life in the community, that it was bound up with the local identity, and that its value could not be calculated in simply economic terms. She noted that the area had a long history of primary resource jobs and many economic losses as railroads where shut down, mines closed, forestry enterprises phased out. The Perry family had always shared the rice with those in need, and it had contributed to the survival of many in the area, especially during the depression years. This history, she said, has become a part of the collective identity and that its loss would be devastating. This fact was proven by the degree of cooperation and community building that had taken place in the wake of the crisis. When questioned about the fact that status Indians were not local, and travelled some distance to harvest at Mud Lake, she responded that they were part of a long history of harvesting at this site, and were bound together with the local Aboriginal residents through marriage. She stated that at rice time they were indeed seen as part of the local community by people in the region. She noted that this relationship was far more important than the economic value that could be gained from the commercial exploitation of the crop (Document 2).

Dr. Bristol spoke at length regarding the difficulty of accurately estimating the amount of wild rice available, and the need for care in determining appropriate quantities for harvest. He discussed several studies, which had been performed, first the Side Dam Rapids report and then the report submitted by Dr. Punter. He also noted his own study of the rice bed. He stated that the best anyone could do is hazard an educated guess regarding the potential harvest. This presentation suggested that there was a danger of overestimating the potential yield and therefore exceeding a
reasonable harvest allowance. He also noted the discrepancies between different presentations regarding the success rates of mechanical harvesters. Some reports indicate a 15% take while others indicate a 40% rate of retrieval. He noted that without a clear idea of what was present it was impossible to successfully determine the percentage of rice harvested. He also noted that it was entirely likely that mechanical harvester design would improve over time making the discussion irrelevant in the long-term (Document 2).

Dr. Bailey presented on the nature of the wild rice plant (Document 2). She discussed the interrelationship between wild rice and other species, fish, wildfowl, and other aquatic plants. Her position was that thinning of wild rice had been implemented in paddy rice situations, and that techniques useful in such protected and artificial sites were not necessarily transferable to plants in a natural setting. She countered Dr. Punter’s recommendations by reporting that wild rice had its own form of chemical warfare that discouraged other plants from taking root but that it was only successful when the density was sufficient. She also noted that what you reap you do not sow, implying that the more rice is harvested, the fewer guarantees there are of a sustainable crop for the future. She clearly stated that green seed does not germinate, and that if green seed is dislodged through the harvesting process that it becomes lost as anything but food for wildfowl. This directly engaged with comments made by Aboriginal harvesters suggesting that the harvester took all but the greenest of rice from the stalk, leaving nothing for other users. Her presentation also indicated that because of the variability normally present in rice beds, commercial operators need multiple sites in order to guarantee a consistent supply of rice while domestic users could make allowances for a reduced yield by harvesting less rice.
Local Interests (Non-Status Indian/Métis Representatives)

Harold Perry gave testimony on the long-term history of the Mud Lake Manomin and the relationship between the Mississauga, and Algonquin peoples (Document 2). He also engaged in a discussion regarding his feelings about the Manomin, and his belief in his Aboriginal Right to continue to manage and harvest the Mud Lake crop. He stated that he was willing to join an organization like IMSet because it continued to give him a voice in the overall stewardship of the rice, and provided an option to accommodate other interests as well. He was anxious to avoid further conflict and so was willing to make this accommodation.

Mr. Perry detailed what he remembered regarding the health of the Manomin over time. He noted that the rice was good to his recollection in the 1930s and 1940s but remembered a significant decrease in the 1950s. There was no verifiable explanation for the decreased crop production. However, Harold testified that at the time, there were green algae on the lake. He also noted that the Hydro people were spraying a defoliant at the time. Mr. Perry stated that he asked the workers at the time what they were using and they said it was 2-4D and 2-45T (what he believed to be Agent Orange). The Hydro lines run roughly parallel to the lake at approximately a one-mile distance. Mr. Perry speculated that runoff was bringing the chemical into the lake through natural means, and that the chemicals may have influenced the aquatic environment. He stated that the 1960s continued to be lean rice years and that only in the 1970s after an aggressive seeding campaign did the rice begin to improve. Mr. Perry testified that the early 1970s, just prior to his father’s death, was the first time in several years that they were able to harvest and take any rice home. Prior to that all harvested rice went to reseeding efforts. The crop gradually improved over the 1970s and finally produced a good healthy crop in 1978. The community
cautiously took a harvest that year but was unable to harvest in 1979 because of the commercial harvester. Mr. Perry was concerned about the issue of zoning. He commented that on any particular day a harvester was faced with weather conditions that caused choppy water. This caused a harvester to have to move to areas that were protected in order to get in a day's work. Zoning further restricted the area that was harvestable thus making it difficult to avoid thin spots. He felt very strongly about not harvesting in thin areas. He expressed extreme distress that last year he had to harvest in spots he'd have otherwise left alone. He talked at length about his understanding of the *Manomin* crop. He discussed how he understood where it grew, what kind of soils it preferred, and how much to reseed as if it were instinct. He said “I know from years and years that I've been there, where it has grown before and where it will grow again… something that you know, sort of like eating with a knife and fork, you know, it comes to you.” (Document 2:240). Finally, Mr. Perry stated that there was no way that he could ever enter into partnership with a commercial operator because their philosophies were too far removed. He said he felt strongly that *Manomin* was there for the people, to get them through hard times as it had in the past. He felt strongly that the rice should not be sold.

Mr. Dewhurst summed up Mr. Perry’s position that his ancestors were responsible for planting and cultivating the rice for at least 90 years. Mr. Dewhurst explained that he was of the opinion that, apart from any claims that may result from Aboriginal Rights, he believed that Mr. Perry could also make claim for the *Manomin* based on Common Law, which provides for the rights of long-term users (Document 2:245).

Robert Lovelace on behalf of IMSet made final remarks (Document 2). He proposed an informal contract with MNR whereby IMSet would receive the sole
licence to harvest the Mud Lake site. He also stated that IMSet would be responsible to ensure the management of the resource for a sustainable yield, and to coordinate the domestic harvest. He noted that, if there was a surplus beyond domestic and conservation needs in any given year, IMSet would engage in job creation sighting harvesting, processing and marketing as potential job positions. He also stressed that they would participate with other communities to continue the advancement of cultural traditions, and community well being through training and other community initiatives. He also proposed the collection of surplus rice for a seed-only program in conjunction with any commercial endeavours.

**Post-Second Hearing (1982)**

Following the hearing, Pamela Purves (MNR, Communications Directorate) sent a brief letter to Alan Pope on December 7, 1981 noting the exceptional attendance at the informal hearing. It also noted that the hearing was “much better represented by those who opposed the Lanark licence than those who found favour with commercial harvesting principles” (Document 30). A report documenting the events of the two days was scheduled for preparation by the end of December, while media and other interested persons were informed to expect a decision by mid-January. The hearing report, dated Dec. 8, 1981 merely provided a summation of the various reports without making a proposal for action on the part of the Minister.

In the period following the second hearing IMSet began to put in place a management structure, and to make plans for the upcoming harvest. On March 1, 1982 Robert Lovelace sent a letter to Mr. Vonk stating that IMSet has begun to plan for the 1982 harvest, and asking to open a line of communication between IMSet and the Tweed office in the likelihood that Alan Pope’s decision was favourable for co-
Another letter was sent on April 5, 1982 requesting a decision, which had not yet been received by the community (Document 32).

Finally, a decision was made on the matter, continuing the previous decision of zoning. On April 20, 1982 a press release was issued by MNR stating that the decision was to license 70% of the rice harvest to local users, and to reserve 30% for commercial harvesting (Document 33). It states, “while my Ministry recognizes the need to conserve the wild rice resource of Mud Lake to ensure the supply for uses of both human and wildlife populations, approximately 30% of the rice crop on the lake has been designated for commercial use to ensure the development of a viable local industry”. He continues, “the commercial licence will be awarded by the Ministry to a qualified firm, thus providing a local source of job opportunities”, and “we must support, especially during these difficult economic times, local industries which offer job opportunities. It would be a shame to lose our Ontario wild rice market to out-of-province distributors now on the verge of entering the market. It would be preferable to see our local wild rice industries in a position of being able to seek new markets elsewhere” (Document 33). Local residents interested in harvesting for their domestic needs were encouraged to register with the Ministry and pay their $1 fee for their yearly harvesting licence to harvest the remaining 70% of the crop. A meeting took place at Ompah on this date where Mr. Pope detailed his proposals for the wild rice in Mud Lake.

It would seem, however, that there was a lack of clarity around the intentions of the MNR because on June 2, 1982, Robert Lovelace sent a letter to Alan Pope stating “It has been almost six weeks since we met with you in Ompah and heard your proposals for the wild rice in Mud Lake. At that time you had indicated that a written statement would follow within a week or two. To date we have received nothing”
(Document 34). In this letter he commented on the approach of the harvest season, and detailed the list of harvest management plans that the community had developed (Document 34). He went on to state the community’s intention to work in conjunction with Dr. Bailey, and Dr. Bristow to undertake a management assessment of the crop, establishing a domestic harvest accounting system to provide information to IMSet and MNR. In addition he noted their intent to hire a project manager and several workers to engage in harvesting and curing of the rice for a commercial component of the harvest. Mr. Lovelace also sent a letter to Mr. Vonk (Tweed) MNR to notify him that the community intended to move ahead with their plans despite no reply from Mr. Pope (Document 35: June 15, 1982).

The implication of these letters is that some discussion had been proposed regarding the issuing of the commercial license to IMSet for a commercial venture on the 30% of the harvest area designated for commercial use. There is some indication that this may be the case in a June 18, 1982 letter to Mr. Lovelace from Alan Pope (Document 36). The letter states, “the program of assessment and management that you outline in your letter appears well thought out. I must remind you however, that I would consider that proposal only for the area of the Lake that is licensed for commercial harvesting” (Document 36). He continued that the remaining 70% would be reserved for domestic use. He suggests that a licence would not be necessary for domestic use but that individual users would be required to sign a registry book at the local office and pay a $1.00 fee for harvesting. He also indicated that harvest quotas would continue to be set by MNR.

The community took exception to the conditions of the Minister’s decision, indicating that there had been some ambiguity about the exact nature of the MNR’s decision. The decision maintained the absolute authority over the rice crop by MNR,
and did not allow for harvest quotas and decisions to be made by the community. It required individual residents to drive to the Tweed office to register, a 120 km round trip. The decision also completely failed to recognize the community’s right to the rice through their generations-long relationship and traditional management practice.

The community’s formal response to Mr. Pope was forwarded in a letter dated July 7, 1982. IMSet stated, “the Board of Directors of IMSet rejects the decision of the Honourable Alan Pope which are contained in his correspondence of June 18, 1982 and puts him on notice that IMSet will continue to exercise its indigenous rights and will continue to control the use of wild rice at Mud Lake, Ardoch” (Document 38:1).

This document is an impressive, and authoritative recitation of the community’s emotional attachment to the rice, and their absolute refusal to have their rights appropriated by the Province of Ontario. They state their ongoing efforts to struggle within themselves “to prepare compromises which would allow for the meeting of your objectives as well as ours” (Document 37:1). They noted that they had played down the issue of community rights to the rice in order to ‘establish peace and co-operation’. They also stated that the OMNR “does not have a legitimate right to the wild rice at Mud Lake and can not arbitrarily declare that it has responsibility and right to determine its use” (Document 37:1). While the letter affirms the community’s willingness to meet with MNR to find a solution, they clearly state that the community will engage in their own management program, and that they would continue to “passively resist any force which attempts to diminish our members rights to peacefully harvest wild rice on any part of Mud Lake” (Document 37:2). Finally, they state “IMSet is dedicated to a strengthened union between native and rural people to ensure that the rights to this particular resource and the accompanying
cultural values and traditions will not be surrendered” (Document 37:2). IMSet issued a press release on July 12, once again providing a clear statement of their position and 3 letters to provide background information to the media (Document 38).

**Resolution and Implications**

A number of internal letters by various staff of the MNR to Mr. Pope were present in the MNR files drawing his attention to newspaper coverage of the most recent Ardoch developments. Finally, a meeting was called between IMSet and Mr. Pope for Aug. 20, 1982 in Kingston. The details of the meeting, and the resolution achieved are reported in letters exchanged between Mr. Lovelace and Mr. Pope on August 25, 1982 (Document 39), and September 3, 1982 (Document 40).

The first letter from Mr. Lovelace states that the community would co-operate by applying for licence and providing a list of harvesters and other information if the Ministry would acknowledge the unresolved jurisdictional dispute, and accept that by applying for or receiving a licence it did not waive or discredit those concerns (Document 39). Mr. Pope’s response was to send a letter acknowledging this agreement, stating, “I am issuing this licence, recognizing that there are unsettled disputes concerning Indian rights, Constitutional rights and jurisdiction. It is agreed that neither the application for the licence nor the issuance of the licence will jeopardize our respective positions in the ultimate resolution of these disputes” (Document 40).

At the beginning of the dispute, the struggle seemed to be about access to the resource. However, the root of this perspective was authority. The conflict began with strong emotion expressed against the audacity of the MNR to give the rice to a commercial operator, and without consultation with the local people. As the conflict
evolved, however, the terminology of the dispute shifted heavily towards a dialogue of limits, scientific management, economic development, and Ministry control. This was a period where community legitimacy came under heavy attack. Community efforts centred on ways to co-operate with MNR in order to avoid conflict, and to ensure continuing access and decision making involvement over the wild rice. However, the MNR remained firm in their belief of the absolute authority of the province to govern resources based on their legislated role, and on their technical and scientific expertise.

In April 1982, the community made what it saw as a significant concession to the Ministry involving limited commercial harvesting for seed only, on 30% of the lake, if the commercial licence was granted to IMSel, and the remainder of the lake was reserved for local access and control. This concession indicates that the community is more concerned with preservation and local control than in domestic vs. commercial uses – although the ‘for seed only’ stipulation did impose a social value upon the commercial harvest. However, in 1982, when the MNR refused to grant any concession beyond access to the community, the local community withdrew all concessions, and took an absolute stand regarding Aboriginal, and community authority over the Mud Lake Manomin crop.

The resulting agreement ended the four-year dispute with a resolution that provided for the critical positions of MNR and the community to be protected, while providing no clear winner. Rather, the resolution was a stalemate in which neither party could win absolutely. However, considering the considerable power of the MNR relative to this local community, this outcome is in reality a resounding win for the people of Ardoch. While MNR was able to maintain their legal authority over the wild rice on Mud Lake through the community’s agreement to apply for a licence to
harvest, the community’s functional authority was maintained by MNR withdrawing from their involvement in the management and harvesting decisions regarding the crop and by providing for a future settlement to be reached at some later date. Thus the local authority to use and manage the crop according to their long-term customary practice was maintained, and the recognition of the disputed nature of the jurisdiction over the wild rice crop opened the door to a critical re-evaluation of broader jurisdictional issues in the future.
CHAPTER 6 – DISCOURSES & THEMES

Geographers have long been exploring the imbeddedness of ideas and the contestation between groups with varying levels of power in the social construction of society (Natter and Jones 1997; Pile 1997; Cresswell 1996; Jacobs 1996; Osborne 1996, 1995; Sibley 1995; Massey 1994; Jackson and Penrose 1993). However, a growing number have begun to research the realm of discourse and its relationship with power and space (Peters 1998; Berg and Kearns 1996; Wetherell and Potter, 1992). This chapter brings these works together with the work of researchers in the fields of Aboriginal, and resource policy, and Aboriginal land-use and management studies (Brock 2000, DCI 1995; Altmeyer 1995; Artibise and Stelter 1995; Freeman 1995; Notske 1994; Tyler 1993; Usher et al., 1992; Baker 1991; Wolfe et al., 1991; Boisvert and Turnbull 1985; O’Reilly 1988), to explore the relationship between ideas and resource conflicts. The intersection of this research with a particular locality-based resource conflict produces a regional-scale geopolitics of ideas that sheds light on the nature of resource policy, and its impact on Aboriginal and local access to, and authority over, historically significant natural resources.

Discourses are the conscious and unconscious ideas that we hold, imbedded and communicated in the things we say, and the arguments we make, to justify our positions relative to specific situations. They are value-laden conceptions of the world that are drawn on to legitimize, influence, and construct our vision of society. Those who manage to justify their vision over other visions acquire the power to direct the shaping of space and society. These visions are not homogenous however, and competing ideas are often expressed to challenge the dominant vision. Thus, the articulation of dominant and competing visions represents a struggle for the power to shape space and society according to different perspectives, values, and beliefs. In
this way, discourses become as Peters states “sites of struggle through which people compete to establish their claims and positions against one another” (1998:669).

Like any locality, the Ardoch region is a complex social environment. The various discourses in this conflict arise from the layered landscape of the Ardoch region – layered by the history of Aboriginal-State relations, layered by the evolution of settlement and development in the Ardoch region, and layered by the juxtaposition of provincial, local, and traditional structures of authority represented in the various context chapters. It is out of this layered landscape that the community - including non-status Algonquin and non-Aboriginal residents, and Status Mississauga relatives and friends from the Alderville region - steps to assert its authority.

In this case study, the Ministry of Natural Resources (MNR), supported by a number of other parties, attempts to maintain and apply the dominant paradigm over the people and resources of the Ardoch region. They justify this imposition through discourses which consistently express a vision of society where their own power to manage natural resources is implicit. This vision interacts with a focus on economic development as the means through which society benefits. While they entertain some flexibility in allocating access to resources to specific parties, they remain emphatic regarding their authority, and hold fast to a belief of their superior judgement in resource management for the benefit of all citizens based on their access to scientific and management expertise.

In turn, the local community draw together their ideas, and find common ground from which to challenge the Provincial approach. They articulate the importance of identity and community in resource use and development. They challenge the very notion of development as something that must logically mean exploitation. They assert their ideas and values in challenge to Provincial discourses, and through
engagement in this struggle seek to redraw the lines of authority, and to affect the nature of development in their local environment.

The expression of these ideas reflects a struggle for power – the power to control the use and development of a particular resource, and also the power to define the values upon which local development and use will be based. Through their discourses, the various parties seek to validate their own ideas of authority, Aboriginal rights, resource use and development, and the relationship between these various categories. They also challenge the validity of other perspectives that are based on other value systems. Exploring these discourses allows a glimpse into the underlying meanings and values present in the Mud Lake conflict, and presents a clearer understanding of the motives and power relations which are constitutive of resource and Aboriginal policy. In this way we see the existing system not as a given, logical way to structure resource policy, but as a value and power laden structure, challenged by alternative visions, and capable of modification, and reinterpretation.

**Discourses on authority, ownership, and the nature of Aboriginal rights**

Provincial resource policy rests on the legislative authority of the Province as the owners of the resources within Provincial boundaries. As Usher states, the state system rests on a common property concept in which the state assumes exclusive responsibility and capability for managing a resource equally accessible to all citizens (Usher in DCI 1995). In the various documents created by the Ministry of Natural Resources during the Mud Lake conflict there is a consistent perspective expressed regarding authority over natural resources, ownership of natural resources, and the nature of Aboriginal rights. Almost every document produced for external consumption, and many internal documents, have the implicit and explicit position
that the Province, and MNR as the Provincial designate for resource management, has authority over all natural resources within the Province of Ontario, including the wild rice at Mud Lake.

These statements issued in the name of Alan Pope (Minister, MNR) make explicit reference to the Ministry’s legislative authority over natural resources:

According to the Ontario statutes, it is my responsibility to allocate resources (Document 3, Alan Pope, Sept 3, 1981).

My Ministry retains the right to manage the wild rice on Mud Lake. It is a resource that is growing on Crown land, for which my Ministry is responsible (Document 59, Alan Pope, Aug 20, 1982).

Consistent with developments expressed in chapter 2, the Province expresses its belief in Provincial authority over the wild rice at Mud Lake based on legislation, and on the fact that the rice is growing in a navigable waterway – on land designated as Crown Land. Furthermore, in the following quote, the MNR expresses authority for allocating wild rice because of the *Wild Rice Harvesting Act* which granted the MNR the authority to manage the resource, and because the Province owns the natural resources within the Province of Ontario:

The Wild Rice Harvesting Act does not say that the minister has no authority. In fact, the Legislature specifically gave me authority… Why was the act passed if I have no responsibility to the Legislature for allocating wild rice in the Province and if it does not belong to the Province? (Document 61, Alan Pope, Nov 19, 1981)

This perspective bases Provincial authority of natural resources on Provincial ‘ownership’ of natural resources, which itself is based upon the *Constitution Act 1867* (legislative authority).

This perspective is the subtext of this next statement where local and Aboriginal interests are delegitimized in favor of Provincial authority and responsibility. MNR’s authority over wild rice is implicit to this perspective. Furthermore, the MNR is
presented, along with the Province, as a benefactor of Aboriginal Peoples for providing special consideration of their resource needs. Accommodations to Aboriginal interests are portrayed as the ‘good will of the state’, not as a ‘right’ of Aboriginal peoples to have authority or input into resource development:

There are no provisions in the Act (WRHA) or regulations made pursuant to the Act for granting traditional harvesters, native or other, exclusive rights to harvest certain areas. It has been MNR practice, however, to give preference to native communities, through the licensing process, to the areas which they have traditionally harvested. In the Ministry’s Northwestern Region there are 10 large blocks and 13 specific areas which have been registered and it has been Ministry practice to grant licenses for wild rice harvesting in these to specific Treaty Indian Bands. *These areas are not registered to the Indian Bands… Sharbot Lake, Mud Lake and Rice Lake areas are not registered. Harvesting licenses may be issued for these to Indians or to non-Indians providing in the latter instance the intent of the moratorium is not violated* (Document 47, Mr. Coghill, July 3, 1980 – my emphasis).

There is no recognition in this statement that there exists any ‘right’ of the Aboriginal people to harvest wild rice much less to own, or have authority, over it. Rather, this statement asserts the MNR’s authority to manage wild rice use throughout the Province, based on legislation. It expresses that the Mud Lake region falls within this mandate, and has not been recognized as an area commonly harvested by Aboriginal People. Therefore, the Mud Lake wild rice crop has been considered as outside the bounds of ‘special consideration’. It also expresses a perspective on Aboriginal rights that are expressly restricted to ‘access’. There is no consideration within this sentiment that any other party, Aboriginal or otherwise, could have ownership over wild rice. Wild rice is described unequivocally as a state owned resource and responsibility.

Why then, despite the long local tradition of harvesting noted in Chapter 4, was Mud Lake not recognized as a site commonly harvested by Aboriginal peoples? Was it because MNR was unaware of the long-term relationship the Perry family, and their
allies had with the wild rice? Or did they not recognize the local ‘non-status Indian’ peoples as “Indian people”?

As previously noted, local people considered it highly unlikely that the local MNR office was unaware of their harvesting practice. Furthermore, we know that ‘non-status Indian’ peoples were not recognized as ‘Indian’ peoples by the Province of Ontario at this time. This question of whether ‘Indian identification’ had a bearing on the dynamics of this conflict is raised in the following statement. This internal MNR document clearly asserts the MNR’s authority to make decisions regarding wild rice use at Mud Lake, as well as their authority to issue licenses to harvest to specific users:

I feel that at this time we should be able to license Lanark Wild Rice to harvest, with mechanical harvesters, wild rice from Mud Lake in Frontenac County in 1981, after the local people have had an opportunity to harvest wild rice for their personal use and after the Indian people who are recognized as appropriate to do so have had an opportunity to harvest wild rice for their own personal consumption and for sale (Document 42: Mr. Clarke, June 2, 1981 – my emphasis).

This statement also raises several questions. How is ‘local’ being defined in this statement? Where do the ‘non-status Indian’ people fit in? Are they local people who can harvest for personal use, or are they ‘Indian people’ who can harvest for personal consumption and sale? How does ‘Indian people who are recognized as appropriate’ get defined?

MNR statements do not explicitly engage in a discussion of Indianness, or ‘Indian’ identification, nor do they challenge outright Harold Perry’s validity as an Aboriginal person in any of the documentation located for this case study. However, since we know that Provincial policy did not consider non-status and Metis peoples to have Aboriginal rights that were binding on the Province, we should expect that the illegitimacy of Mr. Perry’s right to the wild rice would be present as a subtext to
statements made by MNR. As previously noted, Provincial attitudes regarding their responsibility to ‘Indians’ was restricted to those defined through the *Indian Act* as ‘Status Indians’. However, within this framework the Province was, at this time, nominally recognizing the need to engage with ‘Status Indian’ communities on the issue of resource use. This sheds light on MNR actions throughout the case study period.

For example, one case study document, referring specifically to ‘Indian’ people, is an internal MNR letter between Mr. Reynolds (Deputy Minister, MNR), and Mr. Wilson (Director of Indian Resource Policy). This letter suggests that there was some question regarding whether the Mud Lake issue was an ‘Indian’ issue:

I think Eastern Region now realizes that there is Indian involvement. I also have had a call from Grand Council Treaty #3 re this hearing (Document 63, Mr. Wilson, July 22 1980).

This is a tenuous link as the wording is not explicit, and any conclusions can be considered no more than perfunctory. However, my reading suggests that MNR recognized ‘Indian involvement’ after communication from Alderville ‘Status Indian’ representatives regarding their involvement in the Mud Lake dispute, followed by further communication from Grand Council Treaty 3.

The extension of this assumption is that the local *non-status* Algonquin people were not recognized as deserving special consideration. While there is no direct mention of this connection in the communications between the local ‘non-status Indian’ people and government officials there is some indirect supporting evidence. For example, an *Ottawa Citizen* newspaper article from early in the conflict states:

When Perry tried to get a permit… he was told he was ineligible because he wasn’t a full-blooded Indian (July 23, 1980:65).
Thus, it appears that the Perry family did not represent a viable ‘Indian’ claim to special consideration. However, due to the practice of considering ‘Indian’ interests in resource allocation noted in earlier chapters, and following a conclusion that ‘Status Indian’ people from Alderville had an interest at this site, MNR then proceeded with that as a consideration.

Further indirect support for the idea that Mr. Perry’s *Indianness* was considered invalid rests in this statement by Harry Daniels of the Native Council of Canada (NCC):

> Regardless of Mr. Perry’s status, he is undeniably a Native person. The harvesting of wild rice is part of the Native culture and to arbitrarily take this right away from Mr. Perry … is surely wrong (Document 43: H. Daniels, NCC, Aug. 1, 1980).

Mr. Daniels has an interest in non-status and Metis rights, and this position is consistent with positions taken by the NCC, and the Ontario Metis and Non-status Indian Association (OMNSIA). However, in this context, his statement establishes a position on the identity of Harold Perry as an Aboriginal person regardless of ‘Indian Status’, presumably to affirm Mr. Perry’s ‘*Indianness*’ in relation to MNR policy, and to base his ‘*right*’ to harvest *Manomin* on that identity. Statements of this sort are likely in response to a supposition that his identity is questionable, invalid, or inadequate.

This suggests that the history of Aboriginal identification has a bearing on the dynamics of the Mud Lake dispute, and imposes a hardship on Mr. Perry’s efforts to be recognized as valid, and to exert influence on the outcome of the dispute. MNR discourses affirm Provincial authority and ownership of wild rice, and circumscribe Aboriginal rights to ‘*access*’, where special consideration is granted to ‘*Status Indian*’ people only. Thus, Mr. Perry’s need to articulate his attachment to the Mud Lake
Manomin, and his historical and cultural involvement with the crop, becomes a major component of the community’s efforts to legitimize their position relative to the Mud Lake Manomin, and to exert influence over the evolution of events.

Community expressions regarding the Manomin at Mud Lake contrast, and significantly challenge, Provincial perspectives. While differences exist between the various groups constituting this community, commonality and cooperation are achieved, and are presented as community statements, especially regarding community involvement in decision-making, and respect for the long-term relationship of the Perry family regarding planting, and maintenance of the crop. They speak to cultural heritage, a long-term relationship of nurturing and harvesting, and a sense of identity that is tied up with the presence of Manomin in their lives.

This sentiment is echoed in academic literature on the subject. As Tyler states:

the harvesting and use of natural resources means more than securing an economic commodity in order to ‘earn a living’. Spiritual stewardship of resources represents a ‘way of life’, a vital process of socialization, moral education, kinship, economic responsibilities and the expression of individual skill and ability (1993:2).

These various meanings are found within the discourses presented by the Ardoch community. For instance, Harold Perry asserted authority over the Manomin based on Aboriginal right, an ongoing relationship with the rice over time, and an obligation to ancestors and descendants as part of a cultural heritage:

I Harold E. Perry lay claim to wild rice by Aboriginal right (Document 7, May 8, 1980)

I helped plant this rice, cultivated it so I feel I am in a position to harvest it (Document 27:1, Harold Perry, Sept. 25, 1981).

I hold a certain amount of responsibility to my ancestors and to my daughter. I want to preserve it as it is - part of my heritage (Document 3: Harold Perry, Sept. 3, 1981)
In these statements, Harold Perry asserts his authority as the steward and inheritor of the Mud Lake *Manomin*, and states his obligation to manage and protect the crop for its continuity, for the good of the local environment, and for the local people. His statements express an explicit belief in his authority, and right to manage the Mud Lake *Manomin*, and by extension adamantly negates any authority being held by the MNR regarding the crop.

Local non-Aboriginal residents support these statements. In contrast to MNR statements that base authority on legislation, community statements argue that true authority is based on a historical relationship with the *Manomin*:

In the case of Mud Lake, Ardoch, … that rice stand has been conserved, protected and replanted by Harold Perry’s family and without their protection, the Wild Rice would not be there (Document 55: Sally Beaton, MVCA, Aug. 27, 1981)

I think that there is the matter of Aboriginal rights… this rice was established by the Indians, and it is my opinion that their rights should be recognized… (Document 2: Bill Flieler, Reeve Township of Clarendon and Miller; Dec. 1, 1981:119)

According to this perspective, local authority is based not on legislation, but on a long-term relationship with the rice, and the history of labour that ensured its continuity, and survival. These statements affirm the Perry family’s ties to the Mud Lake *Manomin*, and an authority based on that relationship.

Community statements further this perspective when they refer to the rice as part of the historic and cultural fabric of the community, and as a symbol of identity and community in the local area.

The relationship which the residents, Metis and white, and our Indian friends from Alderville have with the rice, is deep. It touches our heart and nerves. It cannot be replaced. It is a sentiment which can not be restored if lost (Document 25: R. Lovelace, Aug. 30, 1981)

You have indicated that it is your responsibility to manage resources including wild rice to obtain maximum economic benefits to our Province.
Certainly economic benefit is a large consideration in your mandate but equally large is your responsibility to appreciate and reflect through policy, cultural and traditional relationships which exist between people and resources. Perhaps these entities are far less tangible than dollars but our society still values these relationships above the fortunes of commerce (Document 30, R. Lovelace, Dec. 7, 1981)

In an age when traditions have been overtaken… it is important to us to maintain the traditions of value. It is essential to our identity as individuals and as a community (Document 25: R. Lovelace, Aug. 30, 1981)

The local people…are not interested in making money from the rice but would rather see it remain as it is now, part of the local people (Document 3: Barbara Sproule, Sept. 3, 1981).

These statements articulate a sense of well-being that cannot be bought, or traded for profit. Rather, they indicate the importance of their vision of community, and environment – one which suggests a desire to attain, and maintain a sense of self-determination for their local community. Thus, community discourses adamantly express a sense of the Mud Lake Manomin as part of their conception of themselves, and of their community. They oppose a vision of Manomin as a commodity, and articulate a worth that is far greater.

The belief in the authority of the Perry family over the Mud Lake Manomin is also prevalent throughout the local discourses. Harold Perry is recognized, and supported as that authority, and as the legitimate person to make decisions regarding Manomin use. For example, these statements express recognition of the Perry family, and Harold Perry specifically, as the locally recognized authority over the rice:

(Richard Perry) told us when the rice was there, how much rice was there, if we could gather it, if there was enough to gather (Document 2: Melvin Smoke, Dec. 1, 1981:198)

They (Richard and Harold Perry) looked after it as far back as I can remember. And I’ve heard stories from Nick Webbor, and Bill Beaver, Rod Beaver that how Harold’s great grandmother brought the rice in and followed that right down through (Document 2: John Millar, Dec. 1, 1981:221-2)
The tradition and responsibility of harvesting and re-sowing rice has been kept in the Perry family … There has never been a dispute over the rice. This resource has been a part of our tradition and local culture. We have always considered the Perry family as the guardians of the rice (Document 25: R. Lovelace, Aug. 30, 1981)

Clearly, these statements validate the Perry family as caretakers of the rice.

Furthermore, this next statement expresses a belief in the ‘right’ of the ‘Indian people’, including the Perry family, both to access, and control, of the Manomin at Mud Lake:

The local people generally accepted the fact that the rice was an Indian right, and the locals only harvested very little and only for their own use. This was acceptable to all and I feel still is (Document 45, Harold Perry, May 19, 1980).

The Indians have had control of the harvesting and the white people of the area have known that the harvesting had been carefully controlled. The rest of the residents in the area have been unanimous in their support (Document 51: Martha Brouse, Aug. 20, 1981)

Thus Aboriginal right to the rice is affirmed by local residents, and is defined in terms of access, and control. According to this argument, authority and access are not based upon legislation, and the Province’s authority to issue licences based on certain criteria. Rather, this ‘right’ is a product of Mr. Perry’s Aboriginal heritage, and the long-term commitment to the rice, and to the local community over time. Thus, Aboriginal, and local non-Aboriginal residents profess a respect for Aboriginal ownership and control of the rice, specifically naming the Perry family as the legitimate authority.

Community statements also reflect a sense of solidarity, and belonging between all of the members of the community – Status and non-status ‘Indian’, and non-Aboriginal - based on a history of co-existence, and co-operation. While the Mud Lake Manomin was recognized as an ‘Aboriginal right’, a value of sharing was implicit in their local cultural practice. As a result, access to the Mud Lake Manomin
was not restricted to Aboriginal people alone, but was based on a recognition and respect of an *Aboriginal right* to the rice, and a limited share in the abundance for local residents. These sentiments are expressed in these statements by Harold Perry:

> In the past we worked well and in harmony with each other. We are not graded into categories. We are all doing this together. (Document 7, Harold Perry, Sept 3, 1981)

> I protest strongly the zoning of Mud Lake for rice harvesting purposes. Surely this will destroy the spirit of wilful sharing (Document 19, Harold Perry, Aug 18, 1981).

This solidarity is further expressed during the second hearing. When Mississauga respondents were asked the question ‘who should have the right to harvest the wild rice at Mud Lake?’ these responses were expressed:

> The people who planted it, and the people who looked after it – which I would say would be the residents of Ardoch, and also the Indians that helped them look after it (Document 2: Melvin Smoke, Dec. 1, 1981:201)

> I think the local people here in Ardoch, and their invited guest, the Indian would be the people that would be able to take the rice (Document 2: John Crowe, Dec. 1, 1981:201)

These statements reflect the importance that *Manomin* holds in the community’s history and well-being, as well as the relationship of sharing that existed between the non-status Algonquin residents, their Mississauga relatives, and their non-Aboriginal neighbours. The idea of the rice as part of the people is so ingrained in the community perspective that the idea that the Province should have authority over the *Manomin* at Mud Lake is shocking.

> In fact, this quote by Melvin Smoke makes clear the importance of sharing in the communal harvest:

> All the while I’ve been gathering rice at Ardoch, I’ve never had nobody ever come in the field to ask or inquire about rice. Natural Resource people or anybody… Now, we can take 30 or 40 lb… and yet another man (LWR) can take it all… I don’t think this is right (Document 2, Melvin Smoke, Dec 1, 1981:201).
We have no regrets about you (LWR) coming in there if you want to take 40 lbs like we take… not take it all (Document 2, Melvin Smoke, Dec 1, 1981:206).

Thus, the Mississaugas express an emphatic negation of commercial harvesting, or any one party having a larger share. Instead, the focus is on sharing, and a willingness to accept anyone so long as they are harvesting traditionally, for their own use.

Based on this belief structure the community rejects Provincial authority over the *Manomin* at this site, and refuses to relinquish the system of stewardship that had existed in the community since the time of planting. Rather, they articulate their intention to continue to harvest, and control the rice as in the past. For example, this statement from IMSet to Mr. Pope expresses a refusal to accept Provincial authority as valid, and is followed by a clear expression of intent to continue to exercise authority over the resource:

> I can not stress any stronger in words that the Ontario Ministry of Natural Resources does not have a legitimate right to the wild rice at Mud Lake and cannot arbitrarily declare that it has a responsibility and right to determine its use (Document 40, R. Lovelace, Sept. 3, 1982)

> Our intention is to exercise our legitimate right to control and determine the use of the wild rice at Mud Lake (Document 40, R. Lovelace, Sept. 3, 1982)

These statements challenge the legitimacy of Provincial authority. They refuse to tolerate the arbitrary actions of the MNR in assuming authority over the rice, and establish a position which asserts unequivocally the legitimacy of local authority, and control.

Furthermore, in a letter to Chief Marsden of the Alderville ‘Status Indian’ community, Harold Perry articulates that Provincial licensing must be resisted in order to ensure the continuity of community access as in the past:
I feel Chief Marsden that our maintaining our rights of harvesting without permits is critical, should an application from any of us be refused for any whimsical reason… then to whom would we appeal? Natural Resources I presume… (Document 45, Harold Perry, May 19, 1980)

This statement challenges any sentiment that MNR is seen as a benefactor towards Aboriginal peoples. Rather, it suggests that the MNR has an unpredictable nature in relation to Aboriginal harvesting issues, and is suggestive of an inherent threat in allowing any concessions to Provincial authority in order to guarantee the continuity of access to the resource.

In contrast to Provincial perspectives, the statements made by community members challenge the assumed normalcy of Provincial authority and ownership of the Manomin at Mud Lake. They also challenge the image of the MNR as a benefactor, constructing instead an image of a heavy-handed agency with little, or no respect for local peoples, and local contexts. Furthermore, they assert a local authority, and ownership of the Manomin at Mud Lake based not on legislation, but on Aboriginal right, historic relationship, and commitment. They express the intention to continue to control the rice at Mud Lake based on this vision.

**Discourses on Development, Management and Use**

The authority over a resource means the right to make decisions regarding that resource. Baker states “the right to control resources is often synonymous with management of that resource, and in turn, is closely linked to who benefits from that use” (1991:37). Thus, management and development, each with implications for the use and benefit of the Mud Lake Manomin/wild rice, are also themes debated throughout the case study. Inherent in these discourses are statements constructing different visions of development, management and use, which are based on different value systems. Thus, these discourses are primarily debating which values we should
draw on in making decisions regarding the development, management, and use of natural resources like *Manomin*.

Throughout the case study documents, MNR and their supporters, suggest that there is a moral duty to utilize resources to their maximum potential. This idea is rooted in the colonial past, from a vision of the continent and its resources as limitless, and a national economy based on resource exploitation, to the concerns regarding the effects of exploitation of resources leading to debates about ‘wise use’ (Hessing and Howlett 1997; Altmeyer 1995; Artibise and Stelter 1995). This idea of the state, as the arbiter of wisdom is based on their access to, and knowledge of, scientific methodologies (Hessing and Howlett 1997). This sentiment is expressed in this statement by Alan Pope:

> As I indicated yesterday my responsibility is to you and all the people of Ontario to manage the resources including wild rice to obtain maximum economic benefits to our Province while utilizing a rational and responsible system to ensure a sustained yield in perpetuity, of that resource (Document 26, Alan Pope, Sept. 16, 1981)

This idea is consistent with the findings of Peter Usher who states, “the state manages for certain levels of abundance on a technical basis, and then allocates shares of this abundance to users on an economic and political basis” (Usher in DCI 1995:346). Thus, the concept of maximum use is balanced with an idea of management that draws on scientific principles in order to determine the most advantageous levels of use, while preserving the conservation of the resource. In this way, the MNR is professed as the only viable authority because of its access to, and knowledge of scientific methodologies.

The idea of the MNR as the wise, and legitimate authority over natural resources is supported with the argument that Aboriginal and local users are inefficient, and wasteful, and thus incapable of making proper use of resources. Local
management practices are described as unscientific and intuitive, and incapable of making sound management decisions. In this way, the delegitimization of local community management, and use heightens the legitimacy of Provincial management, and development strategies. MNR argues that wild rice must be commercially developed in order to ensure maximum use and benefit to the citizens of Ontario, and to the local community. Thus, management and development are based upon a value of ‘waste not, want not’ where proper use is equated with maximum use, and benefit is equated with financial profit.

In contrast, community discourses focus on a moral duty to preserve the balance between use, and the social, and biological linkages within the area. Use, therefore, must be sufficiently limited in order to sustain the ecological connections, and community relationships inherent in its place within the community. Development is not only commercial development for economic benefit, but also social, and cultural development, and the preservation of ecosystem linkages. Community perspectives advocate a management approach focused on maximum security and benefit to the community. This is a cautious approach based on local knowledge of the resource, and its social, and ecological linkages within the region. This idea is allied with a vision of the MNR, and LWR as profit seekers with no commitment to the local environment, or community. By constructing an image of the Ministry as unethical, and profit motivated, the community initiates a significant challenge to MNR authority, and the model of management and development they advocate.

Throughout the late 1970s and early 1980s, the MNR advocated the development of a commercial wild rice industry. An internal MNR document recommends that they manage wild rice resources for this purpose (MNR, April 15, 1977). To that end, they advocated research and development initiatives that would
lead to a viable industry throughout Ontario (MNR, April 19, 1979; MNR, Sept. 19, 1980; Document 11, James Auld, Mar. 13, 1980). This was accomplished through issuing licenses to commercial industries that had the technical expertise to ensure maximum use and benefit. For example:

My Ministry is committed to the long-term development of a commercial harvesting industry. There are tremendous advantages for the community in terms of jobs and cash flow if this product is managed and marketed efficiently... the responsibility for developing this industry will fall to the licensee and will be a condition for maintaining the commercial harvesting rights (Document 36, Alan Pope, June 18, 1982).

In this statement, the commercial development of a viable wild rice industry is declared a condition for access through the Provincial licensing system. Therefore, the Provincial vision of development is enforced through Provincial power structures, which ensure compliance through provisions for access. Furthermore, the use of the term 'rights' in this phrase further defines 'rights' to resources as access only, and defines the MNR as the arbiter of that right.

Statements expressing this priority are evident throughout the case study material. MNR repeatedly argues that the rice at Mud Lake must be developed for the good of the local community, and the Province as a whole. As the following statements illustrate, the MNR argues for commercial development as a means to benefit the local economy through job production:

In the future our priority for wild rice will be both the commercial harvesting of wild rice and the use of this [for] economic development and job opportunities in your county (Document 26, Paul Coghill, Sept 16, 1981).

The commercial licence will be awarded by the Ministry to a qualified firm, thus providing a local source of job opportunities...we must support, especially during these difficult economic times, local industries which offer job opportunities (Document 33, Alan Pope, Apr. 22, 1982).
To that end, the MNR implies that it will choose a firm that can carry out the desired mandate. Thus a ‘quality firm’ is one that will carry out the will of the MNR.

This explicit focus on the development of a commercial industry based on an economic model is further expressed in the following example. MNR articulates its mandate to manage resources for maximum economic benefit to the Province:

James Auld indicated that the granting of the licence was consistent with OMNR policy of developing resources “to the fullest extent for the benefit of all citizens in Ontario” (Document 23:4, Mr. Oatway, Aug. 21, 1981).

These statements profess a philosophy of maximum utilization in order to provide maximum benefit - where benefit is defined as economic benefit. Furthermore, job production is used to legitimate this form of development as rational, logical, and in the best interest of the local community. Furthermore, it is made clear that preferential access will be granted only to those willing to carry out the mandate of the Province.

This philosophy is consistent with perspectives reflected generally at this time. The goal of a variety of policies, for instance wild rice policy, is reflected in a Cabinet discussion which defines the objective as providing “social and economic benefit to people of Ontario by stimulating use and management” in this case of wild rice (MNR, Oct. 13, 1980). This goal is further reflected in their statement “Ontario will support policies to ensure and enhance a viable industry” (MNR, Oct. 13, 1980). The idea of maximum use for maximum benefit is so closely held that anything less is seen as wasteful.
The following statements, made in the context of the Treaty 3 area, reflect this perspective. MNR argues that under-utilization is wasteful and that Aboriginal people do not use wild rice to maximum potential:

... it is apparent that the simple availability of the crop is not sufficient to interest the native people in the development of this resource to full economic advantage. The problems of inaccessibility, lack of interest, and in peak years, the sheer magnitude of the crop (i.e., the crop being too large to harvest by primitive methods), all have contributed to a drastic under-utilization of the resource and to an awareness that increased economic benefits are available to the Province as a whole through an increased utilization of [the crop] ... the traditional attitude of the Indian people has been such that they have not pursued the available opportunities for economic development (MNR, April 19, 1979:7-8)

... Natives have neither the knowledge or interest to take advantage of opportunities (DIAND 1980).

Clearly, Provincial representatives openly express a perspective that Aboriginal users are wasteful, incapable, or uninterested in making satisfactory use of natural resources. The implication of these statements is that there is a bias against Aboriginal peoples, uses, and philosophies inherent in the Ministry’s policies, and perspectives. Thus, when commercial development, and Aboriginal use, come in to conflict, the implication is that commercial interests will be granted the support of the MNR.

This sentiment is reflected in statements made by Provincial representatives in the context of the Mud Lake dispute, suggesting the inadequacy of local harvesting practices:

As you are aware, in the past this crop has not been harvested to its fullest potential (Document 26, Paul Coghill, Sept 16, 1981).

However, this idea is also linked to ideas about Aboriginal culture, and Aboriginal perspectives on the importance of Manomin. MNR statements, often suggest an absence of understanding regarding the scope of Aboriginal objectives,
and the potential benefits associated with *Manomin* harvesting, and focus exclusively on the objective of maximum use:

I attempted to stay away from discussing the moratorium aspect, stressing only the Minister’s wish to see a natural resource, such as wild rice, be harvested and not allowed to go to waste… *I further tried to emphasize the best way for the Bands to indicate their need and interest in wild rice, was to harvest to the maximum of their permits, and if necessary, apply for additional volumes.* This would be a more effective way of demonstrating the importance of wild rice to them, than demonstrations, confrontations, etc… (Document 53, Mr. Oatway, Aug 25 1981 – my emphasis).

Indeed, the one bit of information that I am fairly confident is correct, is that the percentage of harvest by the native people in Metis is extremely small. Also, the percentage of harvest of wild rice, because of the nature of the cereal and its maturing process, is such that 100% harvesting is absolutely impossible. However, there is a great variation between that which is possible to harvest and that which is being harvested. Indeed, that in itself creates some very significant problems (Document 46, Harry Parrott, Sept 29, 1980).

These statements act to delegitimize Aboriginal peoples by portraying them as irrational, prone to emotional outburst, and incapable, or uninterested in the benefits to be gained from a commercial wild rice venture. In addition, their ‘use’ is expressed as wasteful, and that they would more likely receive the support of the MNR if they proved their need, by increasing the quantity of their use.

Of special interest is how this next statement by Harry Parrott, the Minister of the Environment, defines the importance of *Manomin* as ‘economic importance’ *versus* social, or religious importance, and challenges the Aboriginal ‘rate of use’ as adequate. He continues on this theme of the illegitimacy of a religious, or social value to harvesting practice:

*I was once under the impression that there was a religious connotation to rice harvesting. I am persuaded that the religious connotation is not as direct as I once thought, although I do believe that it is an important aspect of our native people’s way of life – but there is a significant difference* (Harry Parrott, Document 46, Sept 29, 1980).
These statements call into question the belief structures of contemporary Aboriginal peoples, and challenge the continuity of valid religious experience. In this way, Aboriginal users are delegitimized in favour of those capable of proper, and valid use of the resource. The effect of these discourses is to support, and strengthen the MNR’s legitimacy, and responsibility to manage the wild rice at Mud Lake.

This is consistent with the findings of several researchers who have recognized that state policy perceives Aboriginal frameworks as unscientific, irrational, and emotional (Notske 1994; Tyler 1993; Wolfe et al., 1991; O’Reilly 1988). As Notske states, this approach is supported by the idea that resources are commodities, and that traditional lifestyles are quaint but unrealizable (Notske 1994). A further aspect of this perception is that Traditional knowledge, and management techniques are also viewed as inadequate, and intangible. For example, Tyler states:

Western scientism makes a clear distinction between ‘opinion’ and ‘fact’. Only experts and specialists are qualified to render ‘facts’ or determine ‘truths’ on the results of empirical testing by accepted scientific methods. Therefore in the context of classical western tradition, tribal knowledge is viewed as ‘unscientific’ and the acknowledged ‘truths’ of oral tradition are considered ‘myth’ in the pejorative sense (1993:3).

Thus, Aboriginal knowledge, and management techniques are discredited as unscientific.

In contrast, researchers in the field of Traditional Ecological Knowledge (TEK) state that Aboriginal resource management is complex, and highly skilled (O’Reilly 1998; DCI 1995; Notske 1994; Tyler 1993; Wolfe et al., 1991; Fiet 1986). It is based on a systematic accumulation of environmental information, over time, and in a range of situations, which is drawn on to understand the systemic relationships between all factors (Freeman 1995; Tyler 1993). This way of knowing is intrinsically
‘ecological’, ‘holistic’, and ‘local’. It links broad, experience based, accumulated knowledge about the territories involved in a way which leads to an intimate understanding of the ecological nature of the area. Usher adds,

The indigenous system rests on communal property arrangements, in which the local harvesting group is responsible for management by consensus. Management and harvesting are conceptually and practically inseparable. Knowledge comes from the experience of every aspect of harvesting itself… (Usher in DCI, 1995:346-7).

Examples of this concept can be found in the case study documents. For example, during the second hearing Harold Perry responds to questions about his management practices, and his knowledge of the wild rice at Mud Lake:

I know by going in there what to do, and I know that I can make it grow (Document 2, Harold Perry, Dec. 1, 1981:241)

I know from years and years … where it has grown before and where it will grow again, the type of soil that it will grow in by looking at it, paddling through it… something that you know, sort of like eating with a knife and fork,… it comes to you (Document 2, Harold Perry, Dec. 1, 1981:240)

However, these statements do not engender a sense of competency regarding Mr. Perry’s management system to Mr. Ferguson (Mining and Lands Commissioner) who chaired the second hearing. Rather, in this statement from his report to Alan Pope following the second hearing in 1981, Mr. Ferguson discredits Mr. Perry’s methodology as ‘intuitive’, and ‘incidental’:

… I did discuss with Mr. Perry on the record the extent of his management program. He was only able to establish that his program is very intuitive. He has kept no records of areas or methods used. He has done no experimentation in respect of soil conditions and as far as I could determine from discussing the matter with him, his program has consisted merely of scattering seed in locations which occur to him as ideal locations and inspecting the stands as incidental to other trips through the lake (Document 61, Mr. Ferguson, Dec 8, 1981)
Thus, not only are Aboriginal and local interests defined as illegitimate, but their traditional knowledge of the resource, and their traditional management practices, are perceived of as unscientific, and intangible as well.

Lanark Wild Rice allied itself with state discourses in this dispute. The primary focus of LWR statements engage with the idea of development of the industry for economic benefit. They express a belief that resources belong to all of the citizens of Ontario, and support the authority of MNR, and their focus on commercial development for economic benefit:

The Ministry of Natural Resources has jurisdiction over the wild rice, regardless of how it got there. At the present time Steven Richardson who holds the license has not always had that privilege, and he may not again as a result of this hearing (Document 2, Mr. Zarecki, Nov 31-Dec 1 1981:38).

I’m here with a proposal for something (wild rice) … each and every one of us do own as Canadians (Document 2, Nov 31-Dec 1 1981:38).

This sentiment supports the Provincial claim to authority over wild rice, and accepts the MNR’s right to make decisions regarding access to specific sites.

Other statements support Provincial attitudes to commercial development, implying that the Aboriginal people at Mud Lake would benefit financially from involvement in a commercial industry, and thus should be interested in the commercial development of the wild rice crop:

I’m sure that these people who planted rice years ago would be very happy to see their children and children’s children benefiting from it to some degree (Document 2, Mr. Zarecki, Nov 31-Dec 1 1981:16).

I think the native people in this area might have a substantial amount to gain from the wild rice business in this area. Provide markets for you, and provide an incentive to grow additional wild rice and provide jobs (Document 2, Mr. Zarecki, Nov 31-Dec 1 1981:37).

Mr. Zarecki also supports Provincial attitudes toward economic development, and the value of a commercial industry to the region, and argues that the local community
would stand to make significant economic gains due to the economic potential of a commercial business:

… Steve Richardson and I planted a thousand pounds of wild rice this year. If it grows, we are going to need people to help us harvest it. More direct benefits occur when we harvest in the area. Steven has to buy for machine repairs, Volkswagen motors for his pickers, bags, etc.. He’s spent around 10,000 dollars each year trying to keep the wild rice going (Document 2, Mr. Zarecki, Nov 31-Dec 1 1981:15).

…It costs Steven Richardson somewhere in the neighbourhood of 3,000 dollars to get that rice harvested to get back to the Kenora market. Spoilage on the way. And then to process it down there. Why should that money go out of the area? (Document 2, Mr. Zarecki, Nov 31-Dec 1 1981:17).

In these statements, there is an implied invitation for local people to be involved in the commercial industry, thereby seeking to diffuse any resentment local people may have had regarding the issuance of a licence which prevented the continuity of their long-standing tradition of local use. However, these statements focus exclusively on the rice as a resource commodity for economic development. They also fail to recognize any other potential benefits that could arise from the rice. Thus, these statements share in the failure of the MNR to understand, and acknowledge the perspectives expressed by the local community.

These efforts to co-opt the community into the industry contrast starkly with earlier statements by LWR representatives supporting the commercial harvesting license. Rather, earlier statements are consistent with Provincial attitudes toward Aboriginal peoples, and their inability to make proper use of resources. These statements support a perspective of Aboriginal people as wasteful, and therefore undeserving of a license to harvest the crop:

Zarecki says the Metis in the Mud Lake area are not utilizing the resource and he says the rice is ‘being wasted’. He says he surveyed the lake this week and claims that over half the stand of rice on the lake has already fallen off. “A very valuable resource is wasted for another year”, he said, “It really burns me

It seems a shame, Jim, that there wasn’t any harvest this year and Mr. Richardson related to me that he and his partner flew over the area and paddled through most of the area and observed that forty-fifty per cent of the rice was floating in the water and hadn’t been harvested by anyone (Wiseman, Document 10, Feb. 25, 1980).

*Manomin* does not float due to its unique physiology. Thus, these statements appear to be a strategy to delegitimize local harvesting practice, and to manipulate public, and bureaucratic opinion, in order to encourage support for the issuance of a license to harvest for LWR. Likewise, efforts to gain the support of local community members through inducements to profit seem to be an effort to manipulate community, and public opinion, in order to support the bid of LWR to gain permission to harvest the rice commercially on a for-profit basis.

A further move to delegitimize local management practice is introduced by LWR at the second hearing. In response to community concerns that commercial/mechanical harvesting will be detrimental to the *Manomin* beds, LWR introduce technical advice that speaks to technical knowledge, and scientific management principles. Statements in support of LWR made by Dr. Punter, a specialist in paddy production of wild rice, clearly suggest that the local management system is inadequate, and ineffective:

> In the centre part of the lake the plants are very much denser and not nearly as robust. In fact the density results in a great deal of competition between plants and in these cases they don’t even produce a head at all… if the lake were managed it could become one of the more productive wild rice lakes in this general region. If it isn’t managed, there is going to be an increase in the abundance of competing species and probably over a long time, a considerable depletion in the potential for wild rice in that lake (Document 2, Dr. Punter, Nov 31-Dec 1 1981:46).

> … That rice in the Mud Lake has greater potential than is currently being realized. If people wish to harvest it, if they wish to harvest it commercially, certain things could be done to improve the stand (Document 2, Dr. Punter, Nov 31-Dec 1 1981:52).
This argument is extended with a description of some technical aspects of harvesting, where effective management practices are described in order to construct legitimacy on behalf of LWR:

The presentation of McLean covered Lanark Wild Rice operations from 1974 to present day. Their operation has been conducted with full cooperation to Ministry of Natural Resources requirements, over various rice beds in that area. … A grant (1980) from ARDA in the amount of $40,000 was given to Lanark Wild Rice to conduct studies over three years on the wild rice potential in southern Ontario… He (Dr. Punter) expressed the opinion that an exceptional harvest by mechanical harvesters would yield forty percent of the potential crop. The remaining sixty percent would be more than substantial for the propagation of the bed, the feeding of fish and ducks, etc… his studies confirmed the flail system does more damage, yields less than the mechanical harvesters (Document 13, Mr. Buchan, July 29, 1980).

It is quite normal for wild rice to appear and disappear naturally over a period of time. It can be encouraged by appropriate management techniques (Document 2, Dr. Punter, Nov 31-Dec 1 1981:52).

Such opinions attempt to devalue local management practices as damaging, and ineffective. They also imply that community concerns are naïve, and inaccurate.

LWR also attempted to challenge the idea that they were a big business interested only in profits, and that they were ‘outsiders’ with no interest in the local environment:

Steve Richardson applies for the license, he is a resident here, and looks after harvesting. There is no Lanark Wild Rice Ltd., there is Steve Richardson and Cliff Zarecki, two people who harvest wild rice (Document 2, Mr. Zarecki, Nov 31-Dec 1 1981:10).

I don’t feel that Steven and I are exactly big business, but I guess the press wouldn’t have a story if they didn’t print it that way (Document 2, Mr. Zarecki, Nov 31-Dec 1 1981:16).

Mr. Zarecki further challenges the community’s definition of local, suggesting instead that Mr. Richardson is himself locally based and part of the local people:

Steven Richardson lives perhaps forty miles away from the Mud Lake, has all his life. So has his father, his parents, his brothers and sisters. In fact one of his sisters is related to the Hermers some of which are probably in this
audience. I don’t view Steven Richardson as an outsider, not by any stretch of the imagination (Document 2, Mr. Zarecki, Nov 31-Dec 1 1981:13).

In fact many people who are invited to harvest come a long way, several hundred miles… from the Peterborough area (Document 2, Mr. Zarecki, Nov 31-Dec 1 1981:13).

These statements, however, fail to acknowledge the communal nature of the community harvest practice. Instead, they focus exclusively on a specific aspect of community statements regarding ‘outsiders’, and by defining Mr. Richardson as local, and the Mississauga harvesters as ‘outsiders’, seek to delegitimize this complaint.

The strongest statement regarding the morality of maximum use is expressed by Dr. Punter in support of LWR at the second hearing into the Mud Lake issue:

…Wild rice is well known to be the most nutritious of all the cereals; it has got the best protein content, the best protein balance. It’s also a plant, which also grows in places where no other agricultural endeavour is possible. Now we’ve heard about the responsibility on human beings to feed their families, as I fully subscribe to that, in fact I think we all have a responsibility to feed the family of man, as a whole. If we don’t take advantage of this wonderful cereal, and grow it to its fullest potential, we are, all of us, negligent of that responsibility (Document 2, Nov 31-Dec 1 1981:254).

Arguing for the morality of commercial development, Dr. Punter calls into question the morality of the local community for their refusal to share with the larger global community. He insinuates that their concern for the needs of their families, while understandable, are a selfish perspective that should be reconsidered. Once again, this statement works to delegitimize, and disempower a concern expressed by the local community.

In contrast, local discourses on management, development, and use are expressed in significantly different terms. Statements made by local residents, and their supporters define development as community development, and the maintenance of economic, social, and ecological integrity. In these terms, management,
development, and use are linked with ideas of community identity, cultural identity, and community development, relationship building, and healing.

For example, in these statements, community members attempt to express the feeling that they have for the Manomin at Mud Lake. This feeling is linked to community identity, and to community history. They reflect a sense of attachment to the Manomin, and make clear the feelings of local people that it has a meaning that goes beyond economic potential:

We used to have rice on the table, and my father would be so proud to present it to me. And then he would tell me some of the experiences he had during the gathering of the rice, and the people that we would join at that one time of the year. I just look at it as part of the tradition… If I lost it, it would be just a loophole in my life. There is something there that is too great to lose (Document 2: Randy Smoke, Dec. 1, 1981:211-2).

For years, in fact for generations, my family have cultivated the rice on Mud Lake, harvesting it in good years and keeping it established during lean years. Without dispute we have shared the rice with the Indians of the Alderville reserve and with our non-Indian neighbours of Ardoch. Without the encouragement of either your Ministry or the Ontario Government, we have developed this resource for ourselves and our community (Document 22: Harold Perry, Aug 18, 1981).

The wild rice at Mud Lake belongs to the Indians and Metis and Settlers, who have developed a traditional relationship with it. This relationship is generations old. This relationship is ingrained in the fabric of the communities represented by IMS (Document 40: R. Lovelace, Sept. 3, 1982).

The wild rice represents more to our community than a commercial interest (Document 6, Residents of Ardoch, July 22, 1980).

This sense of the rice as a part of the local people is repeated throughout the case study. Community statements indicate that there are far more variables to consider in resource management, and development than commercial potential only. In fact, these statements delegitimize commercial interests by challenging their limited perspective of Manomin as a simple commodity.
One such variable is the link that the *Manomin* already has with the local economy through its existing ecological linkages. Through these statements, the community challenges MNR’s perspective that benefit, even economic benefit, must logically flow from commercial exploitation of the crop:

…much of our revenue comes from the many visitors who come to enjoy the natural aspects of our area…the rice on Mud Lake helps to create this environment and we contend that the traditional harvesting encourages a greater number of ducks and fish in our area. All of this adds up to our way of life… (Document 6, Residents of Ardoch, July 22, 1980)

It must also be stressed here that Commercial Harvesting of Wild Rice is not the only option for obtaining maximum Economic Benefit to our area. The rice and the environment of which it is a part represents a framework which is the foundation for the area’s financial well being (Document 30, R. Lovelace, Dec. 7, 1981)

We enjoy the side benefits of the rice. We have an abundance of waterfowl and trapping animals. Fish are coming back better than ever with the well being of the rice beds. Our local economy is based on these resources. Experts have told us that Mud Lake and the rice is a fragile environment. We need to preserve it as it is”... “the process of zoning appears to be the old game of taking what belongs to the people (Indian or white) in small hunks until nothing is left (Document 25, R. Lovelace, Aug. 30, 1981).

Reeve Barbara Sproule and other village residents said the rice and associated economic benefits belong to the entire community (*KWS*, July 25, 1980:16).

In these statements, community members challenge the Ministry’s proposition that the rice be developed by a commercial firm in order to benefit the local area. Rather, they articulate that the current management, and use of the crop has an already significant relationship to the local economy.

The community does not express the perspective that no resources should ever be developed for financial profit. However, they do articulate that the Mud Lake *Manomin* should not be considered for this purpose, partly because of its already existing linkages within the local areas economy, history and community identity, but
also because of the long history of exploitation and impact on the local area from previous development initiatives:

Your decision to arbitrarily rescind this moratorium, made without consultation with the municipalities or the citizens involved, is incongruous with the preservation of a natural resource, notwithstanding the rights of individual citizens. Through your granting of harvesting privileges to the Lanark Wild Rice Company for the grand sum of $1.00, you are depriving the local people of an additional source of income (Document 51, Mr. McEwen, Aug. 20, 1981).

This is not an area where commercial exploitation of natural resources is unheard of. Our area has long history; and scars to prove it, of ecological disaster. As residents we are becoming more aware of our own impact on the environment and certainly can no longer condone without full participation the exploitation of any of our resources (Document 6, Residents of Ardoch, July 22, 1980).

These statements express a concern regarding the potential impact on the local environment due to the excesses of commercial development. It also expresses the belief that no development should be considered without local participation.

This sentiment is extended in these statements where the community challenges the idea that commercial development will benefit the local area to the same degree as the current system:

Ecologically speaking, the rice has become an integral part of our environment. Fish and waterfowl use it, creating a greater abundance of these species in our area than might be expected”… “We fear that if the rice is tied in with the fortunes of a commercial venture that it will be subject to stresses which will eventually render it depleted (Document 45, non-Aboriginal supporter, May 19, 1980).

What you harvest is a result of what you have sown and this too applies to wild rice. Commercial harvesters take all and nothing will be left for future use (Document 3, B. Flieler, Sept. 3, 1981).

These statements express a concern regarding the continuity of the resource due to commercial interests. They express a fear that commercial harvesting will impact heavily on the ability of the plant to regenerate itself, and as a consequence, significantly affect the ability of local residents to earn a living through the associated
ecological benefits of the rice harvest, such as the commercial hunting, and fishing industries, and associated benefits.

This is linked to an idea of the MNR, and LWR as uninvolved, and disinterested in community well being. Rather, they are constructed as profit seekers, motivated by financial profit, with little interest in the extent of benefits afforded to the community through the presence of Manomin at Mud Lake. This is contrasted with an image of ‘local use’ as ‘wise use’ – best suited to the conservation of the Mud Lake Manomin:

The area inhabitants are bitterly resentful of government bureaucracy which allows ‘outside takers’, who have no involvement in the development of the relatively small rice bed, to destroy a way of life without apparent sensitivity and then to harvest elsewhere (Document 48, Martha Brouse, May 9, 1980).

We wish to express our concern at the morality of this decision as it affects the residents of Ardoch who established the rice beds, looked after them and must now relinquish the end product to a late-arriving entrepreneur (Document 55, Sally Beaton, MVCA, Aug. 27, 1981).

The very obvious wish of the local people involved is that the continued preservation and sensible management by the Indians and Metis, who are the largest harvesters, be maintained (Document 7, Harold Perry, May 8, 1980).

There is a distinct sense of resentment toward the MNR expressed in these statements. Furthermore, the community challenges the right of MNR to decide the fate of the Manomin when they were not responsible for its establishment, and would not have to suffer the consequences of the destruction of the rice if the commercial harvester was over zealous in their harvesting practices:

The Ministry of Natural Resources did not bring the rice here. They have not cared for it. Lanark Wild Rice have not resown rice here. Harold Perry’s father brought the rice beds to their present status, and Harold continues to watch and nurture the rice beds (Document 25, R. Lovelace, Aug. 30, 1981)

When the rice is gone they will go elsewhere but this is our home and we will stay (Document 25, R. Lovelace, Aug. 30, 1981)

Their challenge goes further, to question the legitimacy of the MNR to make reasoned decisions regarding the Mud Lake Manomin. These statements challenge MNR’s
authority by questioning their judgement, based on their behaviour throughout the conflict:

…the taking of such a risk on the only single rice bed in the region, the persistent efforts to try a second year without even an assessment of last years damage (Document 7, Harold Perry, May 8, 1980)

I support efforts in objections to a one-dollar selling price to commercial operations. I think if they are willing to pay $1.00 to harvest the rice it’s worth at lest that much to leave it for the ducks and the fish (Document 3, Mr. McEwen, Sept. 3, 1981).

When faced with the intensity of community emotion, and attachment to the Mud Lake Manomin, the absurdity of a one-dollar selling price draws out the ludicrous nature of this dispute, drawing significant attention to the judgment of the MNR in this particular case.

Community members also challenge the ethics of the MNR for their indifference and disregard for community interests in the rice. As Notske states, “communities want to be involved in a meaningful way in decisions over resource use. They assert a need for a truly cross-cultural process” (1994:271). This sentiment is expressed not only by the Aboriginal users, but by all of the community members. All of them felt slighted at the MNR’s total disregard for community interests:

The people of Ardoch, both Indian and white were shocked to see the machinery without warning to anyone. It is felt that the act could have been committed through prejudice to the Indians… In this area the Indians and whites have lived with equal respect for one another as common residents of the community working together to improve the way of life (Document 48, Martha Brouse, May 9, 1980).

The failure of Natural Resources to notify the local residents and representatives, the secrecy of the operation, the failure to talk to the Indians and Metis who harvest the rice… total disregard to the residents wishes (Document 7, Harold Perry, May 8, 1980)
In fact, throughout the case study, the whole community is unanimous in expressing their emphatic desire to have a say in decisions affecting the local environment, and in so doing, express a desire for local self-determination. It is this idea more than any other that binds the different segments of the community together.

Lanark Wild Rice also comes under attack as a business interest, bound by the realities of business and therefore unlikely to be in a position to ensure conservation of the *Manomin* beds. This challenge is based on their need to sustain an income, which would affect the ‘requirements’ of the harvest, rather than ecological integrity and community needs:

We can not compete with the machine. It is faster. It is bigger. It can take in an hour what four canoes can take in a day. We can not compete with a profit making venture because they have to take enough to pay for their time, capital investment, and the satisfaction of material growth. We can not compete with the government policies which change with the needs of capital ventures. We can not share the rice with the commercial harvester because our means and reasons for collecting rice are so radically different (Document 25, R. Lovelace, Aug. 30, 1981).

An operation such as Lanark Wild Rice Company will need more and more rice every year to sustain its capital investment and meet its overhead costs. Other operators may argue for licenses. In years where the crop is small, the commercial operators will be forced to take too much of the standing crop and therefore could endanger the rice stands by depleting the seed (Document 55, Sally Beaton, Aug. 27, 1981).

Thus, MNR and LWR are constructed as inappropriate monitors of resource conservation based on their interest in maximum utilization as a priority, and on their need to obtain sufficient financial profit to support the demands of the market system.

This argument is extended through several statements that argue that the local community is in a better position to assess ecological integrity than those who are less familiar with the area:

…if for one reason or another there was not enough rice to be harvested, it was left for seed for the next year (Document 3, Harold Perry, Sept. 3, 1981)
Long term effects of large machinery harvesting on wild rice production and wildlife are not known to me although it would appear that conventional limited harvesting by Indians and Metis, who have had traditional rights and have a stake in the entire ecosystem, is logical… I recommend that rice harvesting permits be granted to the appropriate members of the Metis and Indian community in this instance and that those concerned with the harvesting be allowed to set harvest quotas consistent with the crop year and further that they undertake responsibility for yearly production in the interest of the entire ecosystem (Document 48, Martha Brouse, May 9, 1980)

The way we do it is slow. But then again we only take what we need. And what we don’t need we just put it back into the lake for ducks or reseeding (Document 2, Randy Smoke, Dec. 1, 1981:213)

Furthermore, the community challenges the very concept of development for economic benefit as the best alternative. Instead, they point to many other benefits that accrue to the local area as a result of the current system of use. These benefits include community relationships that have developed as a result of the Manomin, and the opportunity to learn, and teach the value of sharing, and community building.

Your decisions (of June 18, 1982 ) reflect a preoccupation with jobs and money, with no recognition of the traditional values of, gift from the creator, teaching from elders, charity to the old and poor and sharing with neighbours which the wild rice holds for us…(Document 40, R. Lovelace, Sept. 3, 1982)

We wish to emphasize again that worthwhile human relationships have been created by the sharing of wild rice in the traditional fashion and that our community is compelled to resist the ‘selling out’ of these traditions (Document 30, R. Lovelace, Dec. 7, 1981).

This is further extended to the valuable role that Manomin could, and should, play in rejuvenating cultural identity, and supporting cultural healing through the continuity of the traditional practice:

…wild rice is one of the most special religious items in nature that they [elders] can utilize in their ceremonies and bring the culture back alive… the people are saying, it is our heritage. We have to do things that will bring the culture back to life in the young people (Document 2, Alan Roy, Dec. 1, 1981: 143)

I wish I could get a course started to teach them [young people] how to gather the old way, and teach them some of the ceremonies that they had lost, to bring it back… they would be doing something that their fathers before them
were doing, and their father’s fathers were doing, it would relate to the customs (Document 2, Randy Smoke, Dec. 1, 1981:212)

These statements speak passionately about cultural revival and the use of Manomin as a sacred plant, as a link to history, heritage, culture and spirituality. They also express the healing and social power inherent in traditional practices that are communally undertaken. As Bernseshawi states,

Maintaining a spiritual relationship with the land is vital for keeping a close relationship with nature and the Creator. When this relationship is lost or severed, then a person or community is said to experience spiritual loss, eventually leading to spiritual illness (1997:121)

This perspective is implied throughout the statements made by community members. They consistently articulate a sense of the rice as a part of the local people which, if lost, would be irreplaceable, and damaging to the community as a whole, as well as to the individual members.

This sense of community unity, and social healing is made manifest throughout this conflict. The community action that resulted from the conflict over the rice provided a lens for the community to assess itself, and to make tangible the linkages that were felt by the various groups within the community. This sense of the community as a diverse, and supportive collective was strongly articulated in the case study material. The elevation of this sense of community identity was a distinct effect of the conflict, which no one was prepared to loose:

I would like to extend a sincere thank you on behalf of the Metis and myself for your support and continued involvement in the Wild Rice situation at Mud Lake at Ardoch… I find this one of the most touching, unforgettable and encouraging things to come out of this whole experience (Document 64, Harold Perry, Sept. 17, 1980).

It is exciting that these cultural groups have found a common cause which has provided a platform for dialogue, co-operation and action… there is a strong desire by the cultural groups to work together (Document 29, IMSet, Oct. 7, 1981).
These statements explain that the *Manomin* has a role much bigger than economic benefit. Furthermore, a number of statements address the deeper spiritual connections held by community members:

My belief that I hold on to… is that it (Manomin) shouldn’t be something to be sold. It goes back to the gift… from the Creator. It’s there for hard times for everyone… I feel very strongly about this. It’s something that I don’t think should be destroyed. It should be there for hard times (Document 2, Harold Perry, Dec. 1, 1981:232).

Sitting around … talking with Harold Perry, he knew right away what I was talking about (spiritual importance), his family was in tune with that, but talking with you (Robert Lovelace), and talking with Andy, and talking to some of the farmers right around that marsh, it made sense to them right away, because they had this feeling that the Indian People were coming to this particular lake for a specific reason, not just for the rice, the rice was part of the bigger contact (Document 2, Alan Roy, Dec. 1, 1981:149).

These expressions of spiritual connectedness are intangible within the framework of western scientific methods expressed earlier. However, they are far from intangible to the members of the community. These feelings run deep, and have special meaning on a personal level. They gave force to community members determination to protect the *Manomin* for the whole community, to refuse to relinquish their right to govern, and protect the *Manomin* against those who would consider it only a commodity, and to refuse any limited access which would prevent the continuity of the relationships of trust, and sharing that had evolved as part of the communal practice.

The community articulates the role of the communal harvest as a major factor in the production of community relationships, and a community identity built on diversity, and respect for difference. The *Manomin* is claimed as a part of the people’s history, identity, and spiritual well-being. Thus it is argued, that the rice should not be commercially harvested by any select group of individuals, but should continue to be available to safeguard community well being in the future.
The discourses utilized throughout this study were meant to influence the outcome of the conflict. Community statements consistently argued for respect of their long-term relationship with the Manomin, with their deep feelings of attachment to the Manomin. However, even in 1982 after considerable pressure to leave the crop for conservation and community needs, the MNR remained committed to the idea of a commercial wild rice industry:

While my Ministry recognizes the need to conserve the wild rice resource of Mud Lake to ensure the supply for use of both human and wildlife populations, approximately 30% of the rice crop on the lake has been designated for commercial use to ensure the development of a viable local industry (Document 33, Alan Pope, Apr. 22, 1982).

I met with representatives of the area and IMSet and told them that seventy percent of the crop would be for personal use by locals, Indians and Metis. The remaining thirty percent would be for commercial use, with preference being given to whoever will provide the most benefit to the local community (Document 59, Mr. Pope, Aug 20, 1982).

The management of this portion of the Lake [70% reserved for use of local area residents, including Indians and Metis] will remain the responsibility of the Ministry of Natural Resources. The Ministry of Natural Resources retains the right to assess the potential yield of the Lake, identify the commercial and domestic harvesting areas and to license the commercial operator… (Document 36, Alan Pope, June 18, 1982).

The MNR did attempt to provide an accommodation to the community by providing for special access consistent with their policy of special access for ‘Status Indian’ bands. However, they continued to maintain the absolute authority of the MNR to manage the resource, as well as a nominal provision for the maintenance of the principle of economic development through resource exploitation.

In contrast, the community argued that the basic principles that they had fought for were not acknowledged through this nominal concession. They argued that they were not interested exclusively in access. Rather, they stated their demand for respect, and an active say in the use of local resources:
Your decisions of June 18th, 1982 clearly indicate that you do not feel that members of IMSet have any right to the wild rice at Mud Lake. No provision in your letter of June 18th, 1982 names nor provides for the traditional relationships which our member groups have with the wild rice. Your decisions reflect a preoccupation with jobs and money, with no recognition of the traditional values of gift from the creator, teachings from elders, charity to the old and poor, and sharing with neighbours which the wild rice holds for us (Document 37, R. Lovelace, July 7, 1982).

Local people have no official input into quotas, management record keeping or methods of harvest. In reality you have merely discouraged Mr. Zarecki in hopes that the local people would find a local commercial outfit more acceptable, in meeting your own objectives. In reality your decisions do not alter the colonial attitudes your ministry has held in the past towards rural and native people (Document 40, R. Lovelace, Sept. 3, 1982).

Thus, the community drew attention to their belief that the current conflict was rooted in a colonial mindset, and fundamentally disrespectful of the Aboriginal and local peoples, and their interests. As a result, they withdrew all concessions they had made in the interest of peacemaking, and declared that they would once again stand in the way of commercial harvesting in support of absolute local authority over the Mud Lake Manomin.

Finally, after an emergency meeting held to avoid another standoff in 1982, Alan Pope and a contingent of community representatives declared a stalemate. The community agreed to provide harvesting information to the ministry, and to apply for a license with the express understanding that the license would not be seen to negate, or waive, the jurisdictional, religious and cultural concerns held by the community (Document 39, R. Lovelace, Aug. 25, 1982). The following quote is Mr. Pope’s concession statement, which declared the conditional resolution of the dispute:

I am issuing this licence, recognizing that there are unsettled disputes concerning Indian rights, Constitutional rights and jurisdiction. It is agreed that neither the application for the licence nor the issuance of the licence will jeopardize our respective positions in the ultimate resolution of these disputes (Document 40, Alan Pope, Sept. 3, 1982).
This concession precludes commercial development of the Mud Lake Manomin crop. It also effectively returns control of the crop to the local community, and allows for the continuity of the traditional management, and harvesting system. However, because the agreement deals explicitly with the local context, and does not forgo the position of the MNR relative to their absolute authority to govern resources within the Province, it contains this concession specifically to the Mud Lake context. A more comprehensive settlement would have opened up the door to further claims, at other sites, by other groups.

The very fact that the Province would issue a license to harvest to a commercial businessperson without consultation with the local community is itself instructive. Local non-aboriginal residents may have recognized Mr. Perry’s authority over the Manomin at Mud Lake, but that recognition did not extend beyond the local sphere. Furthermore, the Provincial authority seemed to have no interest in local self-determination. There was no apparent interest in how the community would like to see their environment evolve, or how they would like development to take place. It would seem that the only reason the local community was given consideration was because of their allied relations with the status Mississauga community, who due to family connections with the Perry family participated in the annual harvest, and who had potential access to special consideration because of their official status as ‘Indian’ people.

Summary

This case study is reflective of the research of other scholars. The Ministry of Natural Resources, as the Provincial state designate for resource management, expresses their legislative authority citing their mandate under the WRHA to manage
wild rice as a resource on Crown Lands. In contrast, the local ‘non-status Indian’ people, ‘Status Indian’ people, and local non-Aboriginal residents challenge state authority over a particular resource, which has intrinsic meaning for the community. Despite differences, the local ‘non-status Indian’ people, ‘Status Indian’ people, and local non-Aboriginal residents find a common ground upon which to speak, and position themselves together, in opposition to state authority throughout this conflict.

The case study documents reflect an oppositional framework. Throughout the case study Ministry of Natural Resource staff expressed their legislative authority over the wild rice at Mud Lake, and circumscribe Aboriginal rights to this resource defining it as ‘special consideration for access privileges’. In contrast, community members in the dispute assert an Aboriginal authority based on identity, historic relationship, and culture. They challenge MNR as a valid authority, and assert the local Aboriginal people as having a valid source of authority based on heritage, culture, historic relationship, and involvement with the rice, and the community.

The community’s demand to be restored to their rightful place as owners, and governors of their resources stood in distinct contrast to the MNR’s role as Provincially designated governors of the natural resources within the Province. By asserting control over the Manomin at Mud Lake, the community redefined the spaces of government control and power, and reasserted a local space of local authority based on local beliefs, and values. Their statements served as ‘sites of struggle’ and cooperation between disparate groups, which succeeded in producing a more equitable social space.
In Closing:
CHAPTER 7: CONCLUSION

Events happen in our lives that we sometimes feel we have no power to change. Often times these things seem incidental to our everyday lives and it only seems in hindsight that, over time, we have lost something special, or that we should have done more along the way to resist. Yet certain events can make this process suddenly visible, suddenly acute, and suddenly demanding of action. The arrival of the commercial harvester on Mud Lake was a sudden event for the Ardoch Algonquin people and their neighbours. The fact that the MNR would issue a license without consultation with local peoples or authorities shocked the community, and galvanized them into action. It threw them into a dispute which would last for four years, and throughout that time change forever the geography of power in the Ardoch region.

I have illustrated, through the context chapters of this thesis, a history where European based laws were imposed upon the lands and peoples of this continent – Ontario specifically - and through which Aboriginal power and authority was circumscribed. I have also shown, through the case study chapters, a contemporary conflict, where a community of diverse peoples found itself entangled in a system of laws which excluded their interests, access and authority. They tried to find a way to work within the system and make accommodations in order to find some acceptable middle ground, but in the end found that their beliefs and concerns could not be accommodated within government structures. They found themselves pushed into taking an aggressive stand to protect their values, beliefs and interests. They ‘stepped out of the shadows’ where the imposition of European based laws, and perspectives had placed them. They stepped out of these shadows and asserted the authority which, they believed, was inherent to their identity and way of life.
Each place has its own dynamic, and Ardoch is no exception. This is not, as in many cases, simply an Aboriginal vs. non-aboriginal dispute, though it does not exclude that element. Rather, there is a strong sense of the local vs. the other in this story - whether the other is someone from down the road, or a government official. As Robert Haas states, “every particularity destroys the luminous clarity of a general idea” (in Ruzesky 1996). In fact, this story is not only about the Ardoch Algonquin community and its historical attachment to a particular bed of wild rice. It is also about regional communities and their attachment to their environments, and the great potential for unity in adversity between Aboriginal and non-aboriginal peoples in integrated communities – something that would be worth looking at in greater depth.

What have we learned? Like other conflicts that have occurred between First Nations communities and various government departments, historically, and since the Mud Lake conflict, we can see that Aboriginal and local peoples are not passive acceptors of the imposition of government policies. Rather, they first seek to reason for a place in the new system, and when that goal cannot be achieved they actively confront the system until their values, interests, and beliefs can be protected and accommodated.

What I did not do in this thesis is as relevant as what I did do. I was interested in many theoretical layers to this issue. These include ideas about resistance, conceptual landscapes, hegemonic and counter-hegemonic processes, and identity development in complex life environments – all of which find expression in this material. I was also interested in the processes of community social and cultural rejuvenation among the Algonquin families in the area, and the mobilization of an Aboriginal rights movement which has come out of the Mud Lake conflict. However,
the base research had not yet been carried out, and both could not be accommodated within the scope of this project.

The Ardoch Algonquin First Nation is currently involved in many levels of political engagement including assertive involvement in the conceptualisation, and ongoing development of the Algonquin Land Claims process. There is also an active process of community building which is seeking to reclaim the past in order to guide, and provide for future generations. Community members are still asserting a strong sense of purpose and direction, which has its roots in the Mud Lake conflict. Thus I have elected to do this background work to the development of the Ardoch Algonquin First Nation particularly because it provides the background for many further research initiatives.

What this thesis did do is to illustrate explicitly, the continuation of colonial ideology in contemporary resource policy, particularly in the context of Ontario. The uncovering of the history of resource and identity policy development, in association with the discourses present in the case study material clearly show that colonial ideologies are actively at work in contemporary resource conflicts. This thesis shows the close linkages between contemporary conflicts and historical developments in the colonial period.

Things have changed since 1982 when this conflict came to a close. For instance, the Constitutional amendments of 1984 defined ‘Indians’ as “Indian, Inuit and Metis”, forever transforming the legal position of Metis and non-status Aboriginal peoples. It also declared that the “existing Aboriginal rights” of these people “are recognized and affirmed”. Furthermore, developments brought about through a series of court cases have further transformed and empowered the position of Aboriginal Peoples (i.e. Geurin 1984; Sparrow 1990; and Delgamuukw 1997).
However, we need only to look to Marshall (1999) and the subsequent lobster fishery dispute at Miramichi Bay to know that fundamentally nothing really has changed. Resource disputes are still essentially about authority. Government perspectives tacitly accept that Aboriginal people (usually defined as Status Indians) have some claim to access to natural resources. However, they remain rooted in the belief that only they can decide on the fate of resources, and who should have access to them. In contrast, Aboriginal people continue to argue, not for access only, but for the authority to decide on the use and development of resources, or at least a significant voice in the process. As Notske states, “Communities want to be involved in a meaningful way in decisions over resource use. They assert a need for a truly cross-cultural process” (1994:271). While having obvious contextual differences, it is likely that this desire is not absent for local communities generally.

This thesis has sought to illustrate the link between contemporary conflicts between Aboriginal and State agencies, and the colonial past. The context chapters show the progression of events whereby Aboriginal authority was circumscribed, and then usurped. They also illustrate the ideology inherent in that development. Drawing on this contextual material, the case study documents illustrate the imbeddedness of the colonial past in contemporary disputes.

The purpose of this thesis is to make evident the meanings, values and perspectives inherent in resource conflicts between Provincial and Federal governments, and Aboriginal and local communities so we can better see ourselves, and each other. As Notske states, “different ideas of the relationship between human societies to resources plays a huge role in the absence of meaningful dialogue in resource debates” (1994:277). Thus, by seeking to understand the meanings behind
and within the events in our lives we can choose, with deeper insight, the values upon which to build our society, and learn from the errors of the past.

This thesis demonstrates the complex mechanisms through which ‘colonial’ strategies continue to operate in existing systems. It may be that this event - the Mud Lake Wild Rice Conflict - was a collision of blind interests, but those interests were blind for a reason. The ongoing and explicit history of ignoring Algonquin interests in the Ottawa valley was detailed in chapter 3. This history unfolds into the 1980 period where the Algonquin presence in the Ottawa valley is simply not considered, acknowledged or addressed. The Mud Lake Wild Rice Conflict is a direct effect of this condition. In fact, it is possible that without Mississauga involvement and participation, this struggle would not have been won.

This thesis details a history of exclusion regarding Algonquin peoples and rights, Aboriginal rights generally, and the rights of local communities to have an active voice in the shaping of their environments. It also draws explicit attention to the issue of authority. The fundamental issue under dispute during the Mud Lake wild rice confrontation was the issue of authority. The resolution, while ending the conflict and assuring the continuity of community traditional practice, was really only a stalemate. It did not resolve the issue of authority. Rather, it was an agreement to leave the issue for another time.

The same issues that were articulated at Mud Lake continue to be articulated in the present at sites all around the country. At root are issues of definition and authority. Increasingly, Aboriginal people are prepared to assert their authority, and challenge laws and policies which are discriminatory. They are willing to take issues to court, or challenge injustice on the ground through civil disobedience. Their
actions are increasingly adept. Increasingly, the courts are finding in favour of Aboriginal peoples.

We are in a period of change. As noted above, Canada/First Nations relations are being fundamentally altered through the courts, and through land claims agreements (see Nisga’a treaty 1999). These changes come in part from the growing assertion by Aboriginal Peoples of their presence and authority in the local spaces of their lives. These changes are about a new relationship, one which respects Aboriginal Peoples history, context and life ways.

The post WWII climate influenced changes that have drastically influenced previous attitudes towards Aboriginal peoples and rights. These changes have led to greater and greater steps toward affirming Aboriginal resource rights, especially in the court system. However, contemporary struggles continue to be entwined with our colonial heritage. We think of ourselves as no longer a colonial country – a colonial government. We believe that we are independent and democratic – serving the needs of all of the citizens of Canada. What we aspire to, we have not yet achieved. As Cottam states:

If symbolic gestures were enough, the problems would have been solved long ago. But Native people want land; they want sovereignty; they want a meaningful voice in constitutional change; they want to be separate but equal. Such demands involve much more than alterations in the relations between the dominant society and Native groups. They involve the redefinition of the legal, constitutional, political and economic structures of the entire country (Cottam 1992/3:202-3).

Contemporary conflicts between First Nations peoples and various levels of government are deeply rooted in our colonial past and will not be resolved until we re-make ourselves on new foundations.
This summer I took my daughter into a canoe… taught her what the rice was, showed it to her. … I told her when I took her into the canoe, I told her, “These fields are yours.” She looked at me and she said, “What do you mean mine?” I said, “It’s your responsibility to take care of it, to make sure that your children, that you bring your children here and get in a canoe - not an air boat but a canoe - and come and collect this rice. It’s your responsibility to learn how to take care of it, how to gather it, how to cook it. All the different things.” She left there, that summer, knowing that she has a responsibility now - and one responsibility is that when she has children, it will be up to her to go to them and take them in a canoe and say this is how your ancestors collected this rice and tell the stories of why it’s there.

Mitchell Shewell
Ardoch Algonquin First Nation
Manomin Productions 1997

What the success of the standoff and our fight to preserve our wild rice rights to harvest in the traditional fashion did was it proved to our community that at last we had some ability to fight back, hold ground, and even to take ground. The leaders in our community that stood up, and sacrificed themselves during the standoff gained a lot of respect. It began to bring our community together. It began to help us look towards the future.

Robert Lovelace
Ardoch Algonquin First Nation
Manomin Productions 1997
References:
Secondary Document Reference


Angus, M., 1991 “And the Last Shall Be First”: Native Policy in an Era of Cutbacks, NC Press Limited: Toronto


…….., 1976 Away Back in Clarendon and Miller, Westboro Printers: unknown


Bartlett, R. H., 1986 Aboriginal Water Rights in Canada: A Study of Aboriginal Title to Water and Indian Water Rights, Calgary: Canadian Institute of Resources Law, University of Calgary

…….., 1990 Indian Reserves and Aboriginal Lands in Canada: A Homeland, University of Saskatchewan Native Law Centre: Saskatoon

…….., 1991 Resource Development and Aboriginal Land Rights, Canadian Institute of Resources Law, University of Calgary: Calgary


Brock, K. L., 2000 “One Step Forward… Accommodating Aboriginal Rights in Canada” Queen’s University, School of Policy Studies Working Paper 5, August


Cottam, S. B., 1992/3 “Reaching just settlements: land claims in British Columbia” (review) in Journal of Canadian Studies, v.27 (4) winter, pp 202-211

Cresswell, Tim, 1996 In Place Out of Place: Geography, Ideology, and Transgression, University of Minnesota Press:Minneapolis

Crysler & Lathem LTD. Dec. 7, 1979 Side Dam Rapids Dam: Preliminary Engineering Study, Mississippi Valley Conservation Authority

Darwell, M. T., 1998 Canada and the History without a People: Identity, Tradition and Struggle in a Non-Status Aboriginal Community, Master’s Thesis, Queen’s University,


(DCI) Dene Cultural Institute, 1995 “Traditional ecological knowledge and environmental assessment” in Consuming Canada: Readings in Environmental History, Copp Clark Ltd:Toronto pp 340-365


Dore, William, 1969 Wild Rice, Plant Research Institute, Ottawa:Canada Department of Agriculture, Publication # 1393

Fiet, H., 1986 “Hunting and the Quest for Power” in Native Peoples: The Canadian Experience, Morrison and Wilson (eds.) McClelland & Stewart

Freeman, M., 1995 “The nature and utility of traditional ecological knowledge” in Consuming Canada: Readings in Environmental History, Copp Clark Ltd:Toronto pp 39-46

Secondary Document Reference


Hessing, M. and M. Howlett, 1997 Canadian Natural Resource and Environmental Policy, UBC Press: Vancouver

Holmes, J. and Associates, 1995 Ardoch Algonquins, Prepared for the Ardoch Algonquin First Nation and Allies, September

Huitema, M., 2000, “Land of which the savages stood in no particular need”: Dispossessing the Algonquins of South-Eastern Ontario of their Lands, 1760-1930, Queen’s University M.A. (Geography)


Isaac, T., 1995 Aboriginal Law: Cases, Materials and Commentary, Purich: Saskatoon


Massey, Doreen, Space, Place and Gender, University of Minnesota Press: Minneapolis 1994


Secondary Document Reference


Musgrave, D., unknown date Claim for Damages of Wild Rice by the Trent Canal


Noble, W. and B. Osborne, 1978 A History of the Native Peoples in the Region of the St. Lawrence Islands National Park, Volume 1: Sources Cornwall:Parks Canada

Notske, C., 1994 Aboriginal People and Natural Resources in Canada, Captus U Publication


………, 1995 “Grounding National Mythologies: the Case of Canada” in Espace et Culture, S. Courville & N. Seguin (eds.) University of Laval:Laval


Secondary Document Reference


Persky, S., 1998 The Supreme Court of Canada Decision on Aboriginal Title: Delgamuukw, Greystone Books:Toronto


Pile, Steve and Michael Keith, 1997 Geographies of resistance, Pile and Keith (eds.) Routledge:NY

Ratelle, M., 1996 “Location of the Algonquins from 1534 to 1650” in The Algonquins, D. Clement (ed.) pp 41-68


………., 1980b Spiritual, Social, Economic & Cultural Importance of Wild Rice, unpublished paper, 1 April 1980


Richardson, B., 1993 People of Terra Nullius: Betrayal & Rebirth in Aboriginal Canada, Douglas & McIntyre:Toronto
Secondary Document Reference

Ripmeester, M., 1995 “‘It is scarcely to be believed…’: The Mississauga Indians and the Grape Island Mission, 1826-1836” in *the Canadian Geographer*, v 39:2 pp 157-168

RRC (Research Resource Centre), 1975 *Indian Claims in Canada: An Introductory Essay and Selected List of Library Holdings*, Indian Claims Commission: Ottawa


Schreiner, C. M., 1978 *Ontario Government Policy and the Future of the Wild Rice Industry*, Senior Honours Essay Bachelor of Environmental Studies (Honours Geography with Biology), Dept. of Geography, Faculty of Environmental Studies, University of Waterloo, March 1978

Sibley, David, 1995 *Geographies of Exclusion*, Routledge: NY


Taylor, G.T., 1981 *The Mississauga of Eastern Ontario, 1634 – 1881*, Queen’s University M.A. (Geography)


Tyler, M. E., 1993 “Spiritual Stewardship in Aboriginal Resource Management Systems” in Environments v 22 no.1 pp 1-8


Warry, W., 1998 Unfinished Dreams: Community Healing and the Reality of Aboriginal Self-Government, University of Toronto Press: Toronto


Wolfe, J., C. Bechard, P. Cizek and D. Cole, 1991 Indigenous and Western Knowledge and Resource Management Systems, University of Guelph: School of Rural Planning and Development
Primary Document Reference

Context Chapters:

Census of Canada 1981

DIAND, Program Development, Ontario Region, 1980 “Second Draft for discussion purposes, Nov 30, 1979: An Outline of the need for a program to develop the wild rice industry in Ontario and two suggested options for a program structure” in Draft proposal, submitted by the Union of Ontario Indians Economic Development Committee to be considered at the UOI-All Ontario Chiefs meeting, Toronto, ON, July 29, 30, 31 1980. (Ontario Archives RG1AA2 Box 184, 1980; also RG1-8 Indians: Union of Ontario Indians 1980)

Grand Council Treaty no. 3, June 4, 1979 Presentation to the Honourable James Auld, Ministry of Natural Resources on Headlands in Treaty #3 (Ontario Archives RG1 AA2 Box 158 file: Indians (2))


……..., June 11, 1981 What’s Happened with Headlands in the last two years? (Ontario Archives RG1 AA2 Box 203, File: Indian Resource Policy (2) II)


Grassy Narrows, 1979 Grassy Narrows Mediation Meetings and Presentations, (Ontario Archives RG1AA2 Box 158, 1979)


Lovelace, B., 1997 Our Story: the Ardoch Algonquin First Nation, (documentary video) Manomin Productions:Kingston

MNR (Ministry of Natural Resources), April 15, 1977 Wild Rice Management Policy, Wildlife Branch (AAFNA files)


……..., April 19, 1979 Deputy Minister, Policy and Priorities Office, Submission to Cabinet: Ontario’s Position on Wild Rice, D.W. Simkin, Acting Director, Policy
Primary Document Reference

Coordination Secretariat (Ontario Archives RG1AA2 Box 169, file: Policy Coordination Secretariat (1) no.4, 1979)


………, June 23, 1980 Economic Development and the Ontario position on three Indian Claims in Ontario (Ontario Archives RG1 AA2 Box 184 file: Indian Resource Policy Branch (3))

………, September 19, 1980 Policies for the Development and Management of the Wild Rice Industry in Ontario (Ontario Archives RG 1 AA2 Box 193, File: Policy Coordination Secretariat (3)


NCC (Native Council of Canada), letter to William Davis, Premier of Ontario from Harry Daniels, President, NCC, March 26, 1979 (RG1 AA2 1979 box 158)

OC 2731/80 Order in Council September 27, 1978 establishing the Indian Commission of Ontario

OMNSIA (Ontario Metis & Non-status Indian Association), OMNSIA brief to the Government of Ontario (RG1-8 file: Indians: Ontario Metis & Non-Status Indian Association 1978)


Primary Document Reference


RSO (Revised Statutes of Ontario) Wild Rice Harvesting Act , 1960, s.4, ch.431 (1467)).

Shewell, M., 1997 Our Story: the Ardoch Algonquin First Nation, (documentary video) Manomin Productions:Kingston

SO (Statutes of Ontario), Wild Rice Harvesting Act , 1960 ch.131 p545, s.3(1).

………., Wild Rice Harvesting Act , 1971 c. 50 s88

Union of Ontario Indians, December 20, 1979 Letter to the Honourable James Auld from Paul Williams, Director, Rights and Treaty Research, UOI (Ontario Archives RG1 AA2 Box 184, file: Indian Resource Policy Br. (3) 1979)

Case Study Documents:


Document 4: Documented oral history by Harold Perry, AAFNA files, approximate date 1980, ascertained from the degree of information present in the document


Document 6: “The Residents of ARDOCH and Surrounding Communities” Submission to the WRHA hearing July 24, 1980, AAFNA files


Document 8: Letter James Auld from the Township of Clarendon and Miller, May 9, 1980, AAFNA files

Primary Document Reference


Document 17: Memo to Mr. Dixon (Assistant Deputy Minister, Southern Ontario) from J.R. Oatway (Regional Director, Eastern Region), May 6/81, Archives of Ontario, RG1AA2 box 209 file13: 1981


Document 19: Letter to Mr. Vonk (District Manager: Tweed MNR) from Harold Perry, Aug 18, 1981, AAFNA files


Document 27: Letter to Alan Pope from Bob Lovelace, on behalf of the local community, September 25, 1981, AAFNA files


Document 31: Letter to Mr. Vonk, MNR (Tweed) from Robert Lovelace (IMSet), March 1, 1982, AAFNA files

Document 32: Letter to Mr. Vonk, MNR (Tweed) from Robert Lovelace (IMSet), April 5, 1982, AAFNA files


Document 34: Letter to Alan Pope from Robert Lovelace, June 2, 1982, AAFNA files

Document 35: Letter to Mr. Vonk (Tweed) MNR from Robert Lovelace, June 15, 1982, AAFNA files

Document 36: Letter to Mr. Lovelace from Alan Pope, June 18/82, Archives of Ontario, RG 1-8 file Indians: Wild Rice 1982


Document 38: IMSet Press release, July 12, 1982, AAFNA files


Document 41: Letter to Chief Marsden from Harold Perry, May 19, 1980, AAFNA files
Primary Document Reference


Document 43: Letter to James Auld from Harry Daniels (President, NCC), August 1, 1980. AAFNA files, (also Archives of Ontario, RG 1-8 file Indians: Wild Rice 1980)


Document 49: Memo to Wild Rice Committee members (ICO) from A. Roy (UOI) re: ICO meeting Aug 21, 1981. AAFNA files


Document 60: Letter to Mr. Lovelace from Grand Chief Kelly, Grand Council Treaty No. 3), Nov 27, 1981, AAFNA files


Document 64: Letter to MVCA from Harold Perry, Sept 17, 1980, AAFNA files

Document 65: Letter to Alan Pope from (private citizen), Sept 6, 1981, AAFNA files

Media Documents

*Globe and Mail*, January 28, 1981 “Auld to quit politics” page 4

.........., September 2, 1981 “OPP storm hamlet over wild rice crop” unknown page

.........., Sept 8, 1981 “The Politics of wild rice” (editorial) page 6

*Ottawa Citizen*, July 23, 1980 “Villagers fight to save wild rice crop” by Jane Taber, page 65

.........., August 21, 1980 “Townsfolk awarded wild rice crop” by Jane Taber, page 16

.........., August 21, 1981 “Lake blockaded against rice harvest” by Patrick Dare, page 3
Primary Document Reference

………..August 28, 1981 “Wild-rice dispute simmers on” by Patrick Dare, page 3

………..August 28, 1981 “Dispute over wild-rice simmers” by Patrick Dare, page 52

………..August 31, 1981 “Wild, wild rice caper ends one meter shy of goal” by Laura Robin, page 1

………..August 31, 1981 “All the law’s men can’t help rice harvesters get into lake” by Laura Robin, page 2

………..August 31, 1981 “Residents help foil harvesters” by Laura Robin, page 5

………..August 31, 1981 “Residents complain about OPP blockades” by Laura Robin, page 44

Perth Courier, August 27, 1980 “Future uncertain for Perth rice company” unknown page

……….., September 2, 1981 “Police ‘invasion’ heats up rice war” page 1

……….., September 2, 1981 “Locals scorn OPP actions” page 1

……….., September 2, 1981 “Would co-operate with local Metis” page 1

……….., September 2, 1981 “Police invade Mud Lake” page 18 (text and photo)

……….., (photos) page 25

Tweed News, December 2, 1981 “Wild Rice in Ardoch area discussed at Nov. 30 meeting” page 9


……….., August 22, 1981 “ Tradition and efficiency square off on the shores of Mud Lake” by Ralph Willsey, page 6

……….., August 24, 1981 “MPP McEwen criticizes ministry for allowing Mud Lake rice harvest” page 8

……….., August 31, 1981 “Mud Lake protesters block launching of rice harvester” by Ralph Willsey, page 44

……….., August 31, 1981 “Victory at Mud Lake! Villagers win rice war” by Ralph Willsey, page 49
APPENDIX 1: DATA/METHODOLOGY

The data for the case study research comes from three sources. The primary source is from the files of the Ministry of Natural Resources, housed at the Archives of Ontario, and the files of the Ardoch Algonquin First Nation (AAFNA). AAFNA is the progeny of the organization IMSSet (Indian, Metis & Settler Wild Rice Association). However, AAFNA was not formed until well after the case study period and will not be referred to except as the holders of the records being studied. IMSSet was a group of Aboriginal and ‘Settler’ people living in the Ardoch region during the dispute. It was formed midway through the Mud Lake confrontation in order to fight for local interests in the wild rice. Prior to IMSSet’s formation, the bulk of communication was with Bob Lovelace (the only regional Community Legal Aid Worker who was approached to assist the community in defending the rice, and later, President of IMSSet) representing the local community, Harold Perry (traditional rice steward and local Aboriginal occupant), and a variety of individuals and groups from the local area (Conservation Authority, Township committees, etc….). In addition to these files I have included newspaper reportage of the confrontation, and interviews of key informants not as critical data, but as supporting or clarifying material.

The MNR files include reports, internal documents, letters in and out, and a variety of submissions to Provincial Cabinet and various committees. Some of these files were open files that were easily accessed. However, a predominant number of the files with wild-rice, ‘Indian’, Ontario Metis and Non-status Indian Association (OMNSIA), and Mud Lake content were closed files that I had to apply for access to. Under the Privacy Act some of the information was not accessible. Thus, the material in this section often has particular information blocked out (i.e. the names of private citizens). There are also a number of items that were excluded. These included any
Cabinet documents that were 20 years old or more recent. The result is that there may have been specific discussions in Cabinet about the Mud Lake confrontation, or other relevant discussions that I was unable to access. These materials, depending on whether they were internal documents or official statements, represent varying levels of openness regarding the basis for positions taken. This is a natural function of documentary sources and has been taken into consideration during the analysis of the materials.

The AAFNA files also offered some difficulties. Some documents were found with no dates, headings or signatures to clarify the time period, author, or purpose. This is especially so in the case of newspaper articles cut from the host newspaper without reference information. Some of these articles have been located through newspaper searches but some have not. Another aspect of the AAFNA files is that these materials were provided to me without restrictions. Thus, names and materials, which may not have been provided through the MNR files, are available in this case. For obvious reasons I have not included the names of private citizens in the thesis document. Most of the community files were statements or replies to statements made by MNR, thus for the most part these documents are read as official statements. Because of the nature of the back and forth negotiation between the MNR and AAFNA, some of the same materials were found in both files providing confirmation and validation.

The newspaper reportage included reports, letters to the editor, illustrations and other materials. While I did attempt to locate all of the relevant coverage I cannot guarantee absolute success. Rather, beginning with key dates, and with the dates of newspaper coverage located in the MNR and AAFNA files, I searched a number of newspapers for several days on either side of the relevant dates in order to locate
additional coverage not found in the MNR and AAFNA files. The newspapers I searched were a selection of major and regional papers that were represented in the MNR and AAFNA files. These included the *Globe and Mail, Ottawa Citizen, Kingston Whig Standard (KWS), Peterborough Examiner,* and the *Tweed News.* Unfortunately, I was unable to access the *North Frontenac News (NFN)* papers from the time period because these files are in storage following a move to a new location and not accessible at this time. However, Harold Perry did have a fairly comprehensive collection of the *NFN,* which I examined. Mr. Perry also had a significant collection of the *Perth Courier* from this time period. Because this research is not preoccupied with media representation as its major theme I have been satisfied with this collection.

Interviews with informants relied predominantly on Robert Lovelace and Harold Perry of the Ardoch Algonquin First Nation who, at the time of the conflict, were leading figures in the Aboriginal challenge to the ministry’s actions. They also include interviews with some residents: Barbara Sproule, Reeve of the Township of Palmerston & North and South Canonto during the conflict period; Wayne Robinson, a community social worker in the region at the time of the conflict and a leading person in the formation of the Hiway 7 Community Development Corporation; and a number of other individuals who prefer to remain unidentified. These informants have been shuffled, and are identified only as respondent 1 through 6, in order to protect their confidentiality. I was unsuccessful in locating an MNR informant from the time period. Local staff could not locate their names in the current registry. This is likely due to the passage of time and their movement out of the Ministry.

I have used the diverse materials to try to pull together a story of the conflict from the various perspectives involved. In chapter 5 I have attempted to provide a
chronology of the events by interpreting the evidence presented in the case study documents. Where discrepancies, ambiguities, or differences in perspective exist I have attempted to ascertain as accurate a picture as possible based on the various representations. I have sought to make these differences known and then to draw my own conclusions based on the available information.

In chapter 6 my approach has been to look for discourses and themes present in the statements made throughout the case study as expressed by a number of different parties within the Mud Lake conflict. I have then viewed them through the theoretical and contextual lenses provided in Part I of this thesis, and though current academic research on resource/Aboriginal issues. Where ambiguities exist I have tried to piece together the ideology being expressed by linking related textual evidence, supported with current academic research on resource/Aboriginal issues.

The conclusion will assess the impact of this research and make some cautious statements regarding the future. It will also attempt to put the research into a context that points the direction towards theoretical directions in social science research. It is hoped that this will point the way to further research embedded in this, and other case studies.

Finally, I will close with the words of a variety of individuals I have encountered through the thesis material in order to leave the reader with a sense of the passion and courage of those involved in this struggle, and of the deep sense of connection of these people to their home, and to the revelation of this history.
APPENDIX 2: WHO’S WHO

Mr. Davis (Premier of Ontario)
Harry Parrott (Minister of the Environment)

Lanark Wild Rice

Lanark Wild Rice - A partnership between Ken (deceased April 1981) & Steve Richardson, and Ken Zarecki, based in Perth, ON, Lanark Twp. Steve Richardson took over his father’s share of the business upon his father’s death.
Ken & Steve Richardson, joint-owners, LWR
Ken Zarecki, joint-owner, LWR
Frank Lemieux - Solicitor for Lanark Wild Rice (1980)
Mr. McLean - Solicitor for Lanark WR (1981/2)
Dr. Punter - Specialist, paddy wild rice production, University of Manitoba.
Douglas J. Wiseman (MPP Lanark)

Ministry of Natural Resources

James Auld – Minister of Natural Resources from the beginning of the conflict until January 1981.
Allan Pope – Replaces James Auld as the new Minister of Natural Resources from January 1981.
Mr. Reynolds –Deputy Minister, MNR (mid-1980 – 1982)
Mr. Foster – Deputy Minister, MNR (1980)
W.A. Buchan - Regional Mining Lands Administrator (North-western Region - Kenora), Chair of First WRHA Hearing July 24, 1980
Mr. Grant Ferguson - Commissioner and chair of the Second WRHA hearing Nov 30-Dec 1, 1981
John Williamson - Fish and Wildlife, MNR (Tweed)
Mr. Vonk - District Manager, MNR (Tweed)
Mr. Dixon - Assistant Deputy Minister, MNR (Southern Ontario)
J.R. Oatway - Regional Director, MNR (Eastern Region); later Assistant Deputy Minister, MNR
Paul Coghill – Administrative Assistant to the Minister, MNR
E.G. Wilson – Director Indian Resource Policy, MNR
Pamela Purvis – Communications Directorate, MNR

Local Community & Support groups

Harold Perry – Local resident of Ardoch. Rice Stewart at the time of the conflict. Due to its expediency as a politically salient term, Mr. Perry referred to himself as Metis (versus non-status Indian) in much of the case study documentation. Descendant of an Algonquin father (the Whiteduck family), and a Mississauga mother (the Crow family). Current member of the Ardoch Algonquin First Nation.
Richard Perry – A local resident of Algonquin descent, and the father of Harold Perry, who tended the Mud Lake Manomin throughout his lifetime. Harold took over the task upon his father’s death.
Robert Lovelace - Community Legal Worker, North Frontenac Community Services, later: President of IMSet (1981/2).
IMSet - the Indian, Metis and Settler Wild Rice Association, representing the local community.

Regional Government representation:
 Bill Flieler (Reeve of Clarendon & Miller Township)
 Barbara Sproule (Reeve Palmerston, North & South Canonto)
 Earl McEwen (MPP Frontenac-Addington)
 Bill Vankoughnett (Local area MP)

Non-local Aboriginal Supporters:
 Mr. Madahbee (President, UOI)
 Duke Redbird (OMNSIA and NCC Representative)
 Harry Daniels (President, NCC)
 Chief Earl Hill (Tyendinaga Representative)
 Alan Roy (Union of Ontario Indians - wildlife biologist)
 Mississauga reserve community representatives: Chief Glen Marsden, John Crowe and Mel Smoke from Alderville, his son Randy Smoke a resident of Gores Landing, and Murray Whetung from Curve Lake.

Non-Aboriginal residents:
 Roy Schonauer (local muskrat trapper), Joanne Eadon, John Savigny, Helen MacDonald, and Glen Manion, Winton Roberts (a resident of Palmerston Township)

Mr. Odette spoke on behalf of the Association of Anglers and Hunters.

Specialists:
 Dr. Bristol, an aquatic plant specialist in the Biology department, Queen’s University.
 Dr. Laureen Snider, Department of Sociology, Queen’s University,
 Dr. Isabelle Bailey, a wetlands specialist in the Department of Biology, Carleton University.

Mr. Dewhurst – lawyer for Mr. Perry at the Second Hearing

Acronyms:

ARDA – Agricultural Research & Development Association
IMSet – Indian Metis and Settler Wild Rice Association
KWS – Kingston Whig Standard
LWR – Lanark Wild Rice
MNR – Ministry of Natural Resources
NCC – Native Council of Canada
NFN – North Frontenac News
OMNSIA – Ontario Metis and Non-Status Indian Association
UOI – Union of Ontario Indians
Vita:

Name: Susan B. DeLisle

Place and Year of Birth: Windsor, Ontario, 1962

Education: Queen’s University 1993 - 2001
MA (Geography) 2001
BAH (Geography) 1996

Experience:

Resource Harvest Study Planning Co-ordinator
Institute for Environmental Monitoring and Research (IEMR)
February 2001 - present

Co-ordinator:
Second Annual Symposium in Native Studies Fall, 2000

Cordillera Environmental Services May – September 2000
Administrative support staff
Workshop planning and co-ordination

Co-ordinator:
First Annual Symposium in Native Studies Fall, 1999

Academic tutoring Sept 1999 - Jan 2000

Teaching Assistant Sept 1997 - April 1998
Sept - Dec 1998
Sept - Dec 1999

Research Assistant: May - Aug 1998
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Documentary Video Production:

Papers presented:
