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MANAGING TRIBAL LANDS AND RESOURCES IN MICHIGAN:  
TRIBAL, STATE, AND FEDERAL INFLUENCE

by

Elise Crafts

A Thesis submitted to the Graduate College  
in partial fulfillment of the requirements  
for the degree of Master of Arts  
Department of Geography  
Western Michigan University  
April 2013

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## MANAGING TRIBAL LANDS AND RESOURCES IN MICHIGAN: TRIBAL, STATE, AND FEDERAL INFLUENCE

Elise Crafts, M.A.

Western Michigan University, 2013

Michigan Indigenous Tribes, along with the State and Federal government, are key players in current environmental management programs and policy. The current relationship between these three entities is not clearly defined. Using qualitative data collected through collaborative interviews with employees and members of multiple Michigan Tribes, this study narrates the present dynamic of the Tribal-State-Federal environmental relationship. The Federal government's legal obligation to Michigan Tribes may mitigate potential tension between Tribal and Federal environmental departments, as Tribal-Federal communication is historically established by treaty. Across the country, Federal, State and Tribal departments face similar environmental concerns but the extent to which Indigenous environmental ethics are integrated into Michigan environmental policy is not established. A better understanding of their relationship is necessary to ensure the most effective environmental management policy for all entities involved.

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### Acknowledgements - Continued

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Elise Crafts

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## LIST OF ABBREVIATIONS

Grand Traverse Band of the Ottawa and Chippewa Indians .....	GTB
Little Traverse Bay Bands of Odawa Indians .....	LTBB
Nottawaseppi Huron Band of the Potawatomi .....	NHBP
Pokagon Band of the Potawatomi .....	Pokagon
Saginaw Chippewa Indian Tribe .....	Saginaw Chippewa

## CHAPTER I

### INTRODUCTION

*“Land has always constituted the heartbeat of Indian life...” - Vine Deloria, Jr and Clifford Lytle (1984)*

#### **Introduction**

This chapter introduces the research topic, which concerns the influence of the Tribal-State-Federal relations on Tribal environmental planning and management. The recent legal battle between Saginaw Chippewa Indian Tribe and non-Tribal governments, including the State of Michigan and local municipalities, demonstrates the Tribal-State-Federal relationship in practice.

#### *Case Study: Saginaw Chippewa Indian Tribe VS State of Michigan*

On November 23, 2010, the United States government legally recognized the reservation boundaries of the Saginaw Chippewa Indian Tribe located in Mount Pleasant, Michigan (Cloutier 2010). The Tribe’s victory suggests a monumental shift in the relationship between Michigan Tribes, the State of Michigan, and Federal government. The Federal court ruling means the Tribe is now responsible for land that includes parts of the City of Mount Pleasant and Isabella County. Jurisdictional responsibilities, including land use, regulation, and law enforcement, were agreed to be shared between the Tribe, City, and Isabella County. According to Tribal Chief Vincent Kequom Sr. in a press release by Saginaw Chippewa Indian Tribe, “These agreements, together with the recognition of our boundaries will resolve many of the prior jurisdictional conflicts and finally recognize the Tribe’s rightful jurisdiction within the Reservation boundaries” (Cloutier 2010, p. 2).

The Saginaw Chippewa Indian Tribal boundaries were initially cemented in treaty between the Saginaw Chippewa Indian Tribe and the Federal government in 1855 and 1864, but were not recognized by the State of Michigan and other local units of government. The Saginaw Chippewa Indian Tribe filed suit against the Governor of Michigan in 2005. They were joined by the United States government in 2006. The City of Mount Pleasant and Isabella County joined the State of Michigan to oppose the Tribe in 2007 (Cloutier 2010).

This is one example of the changing, and complicated, relationship between Tribes, the State, and the Federal government. These shifting relationship dynamics have great implications for environmental planning, management, and decision-making, as the Federal government re-recognizes Tribal governments' spatial, territorial, and temporal right to oversee natural resources and land use regulation on their territories.

#### *Purpose of Research*

This research explores the Tribal-State-Federal relationship as related to Tribal environmental planning and management. Most importantly, it examines this relationship *from the Tribal perspective*. Specifically, this research studies how the Tribal-State-Federal relationship influences environmental planning and management on Tribal lands in Michigan from the perspective of Tribal environmental employees (It is important to note that the Tribal employees included in this research are not necessarily Tribal members). Given the historical conflict between Tribal and non-Tribal interests in the United States, and changing relationship dynamics as illustrated by the Saginaw Chippewa Indian Tribe example, it is likely a degree of conflict exists in the contemporary Tribal-State-Federal relationship. Considering the historical subjugation of



Tribes by non-Tribal interests, it is reasonable to predict that any conflict embedded within this relationship negatively affects Tribal environmental interests. The purpose of this research is to explore the Tribal-State-Federal relationship within Michigan, narrated by Tribal perspective.

### **Background of the Tribal-State-Federal Relationship**

This section briefly introduces the origins of Tribal-State-Federal relations then examines the contemporary dynamics that characterize this relationship.

#### *Land Conflict*

Environmental planning and management is an integral component of the Tribal-State-Federal relationship. Regarding the cultural politics of ownership, Whitt (1998) wrote, “The politics of property is the central historical dynamic mediating Euro-American/indigenous relations” (as cited in Mihesuah 1998, p. 148). Environmental ownership, planning, and management are central to the historical and contemporary relationship between Tribal-State-Federal governments.

Decision-making regarding Tribal environmental planning and management has historically been made by non-Tribal interests at the Federal level. Deloria and Lytle (1984), wrote that the adoption of the United States Constitution resulted in the, “...surrender by the States of the subject of Indians” to the Federal government (p. 3). None of the fifty States are legally obligated to work with Tribes (Deloria and Lytle 1984). However, the Federal government holds a government-to-government relationship with American Tribes (Deloria and Lytle 1984). The previous phrase may suggest Tribal autonomy when it comes to decision-making regarding Tribal land and natural resources interests, but Deloria and Lytle (1984) question this; “Since Tribes are very much

dependent upon the Federal government for their operating funds and for permission to exploit the natural resources present on their reservations, the idea of two governments meeting in some kind of contemporary contractual arrangement on anything approaching an equal bargaining position itself seems ludicrous” (p. 7). The authors imply decision-making regarding Tribal environmental planning and management is heavily influenced by non-Tribal government.

Historic conflict between Tribal and non-Tribal interests is evident in the United States. Low (2006), on behalf of the Pokagon Band of Potawatomi Indians, wrote of the mounting tension between the Potawatomi and American colonists. “During the Revolutionary War, most Potawatomi either sided with the British or remained neutral because of their suspicions of the colonists’ desires for their land. Ever-increasing demands by settlers for land and resources conflicted with the Potawatomi desires to retain their ancestral homelands” (p. 65). Desiring more land, the Federal government began forcibly removing indigenous peoples, including Potawatomi, westward in 1833 on the “Trail of Death” (Low 2007). Despite being separated from their original homeland in Michigan, Tribes have continued to reclaim land and resource rights from the State and Federal government, as the Saginaw Chippewa Indian Tribe demonstrated in 2010. Low (2007) wrote, “The fight for land claims and treaty annuity payments, formal Tribal recognition and other treaty rights continued” (p. 127).

#### *Contemporary Relationship Dynamics*

The relationship between Tribes, the State, and Federal government is changing. In recent years, a growing number of Tribes have been reaffirmed by the Federal government, re-recognizing their independent political sovereignty from the United

States. Native Americans believe they possess inherent sovereignty, with or without Federal regard. Nonetheless, Federal reaffirmation influences the power dynamics between the Tribes, the State, and Federal government (Deloria and Lytle 1984). The process of re-recognition involves forming a Tribal government similar in structure to western governments, which Deloria and Lytle (1984) refer to as, "...merely arms of the Federal government" (p. 226). Again, the true role of Tribes must be questioned in this contemporary relationship. This is especially important in terms of the power Tribes possess over their own land and resources, relative to the States and Federal government. Little is known about the contemporary roles of these three entities pertaining to planning and management of Tribal land and resources. Even less is known about this relationship from the perspective of any particular Tribe in Michigan.

### **Michigan Tribes**

This research takes place in Michigan. Michigan is home to twelve federally reaffirmed Tribes. The syntax used to identify Michigan Tribes is complicated. During the interview process an employee explained that Michigan is home to only several Tribes, from which twelve Bands formed. Therefore, technically Michigan has twelve Federally re-recognized Bands rather than Tribes (This is discussed further in Chapter Five). However, given that all of these Bands refer to their activity as "Tribal", this study follows their example. The indigenous governments referenced in this thesis will be referred to as Tribes and their activities as Tribal. The main Tribal government locations are shown in Figure 1, though several Tribes own land in multiple locations within the State. All Michigan Federally reaffirmed Tribes have a Tribal-specific environmental department as part of the Tribal government, whether referred to as a department of

natural resources, environmental department, or planning department. Tribal employees of these departments interact with the State of Michigan and Federal government in the process of working with other environmental programs, departments, and employees. Given that Michigan is surrounded by the Great Lakes and contains many surface water features, water resources are of great importance to Michigan Tribes. All of the Tribal employees who collaborated in this research mentioned the importance of a water resource to their Tribe. The discussion chapter of this thesis (Chapter Five) discusses the particular land use and resources of each Tribe collaborating in this study, as narrated by Tribal environmental experts.

### *History*

The Michigan Tribes in this study are known as the Anishinaabe, which includes the Odawa (the English equivalent is “Ottawa”), Ojibwe, and Potawatomi (Wemigwase 2005). The five Tribes in this study are descendants of similar indigenous peoples. Little Traverse Bay Bands of Odawa Indians member Wemigwase (2005) writes, “... There is a great similarity between our culture and that of other Odawa bands and other Anishinaawbek such as the Ojibwe bands and Potawatomi bands. We share a certain amount of history with those two groups, especially in the distant past” (p. 6).

The Anishinaabe are originally from eastern North America, where they lived along the Ottawa River. During the early 1600s they gradually moved west, eventually settling on Ottawa Island in northern Lake Huron, known as Manitoulin Island today (Feest and Feest 1978; Wemigwase 2005). On the island, the Anishinaabe split into three major groups, the Odawa, the Ojibwe, and the Potawatomi. These woodland indigenous peoples did not settle permanently in one location until about the early 1800’s (Blackbird

1887; Kinietz 1965). The Odawa and Ojibwe settled in northern Michigan, generally, while the Potawatomi settled in southern Michigan (Wemigase 2005; Low 2006). This study concerns five Michigan Tribes, including: the Little Traverse Bay Bands of Odawa Indians and the Grand Traverse Band of Ottawa and Chippewa Indians in northern Michigan; the Saginaw Chippewa Indian Tribe in mid-Michigan; and the Nottawaseppi Huron Band of the Potawatomi and Pokagon Band of the Potawatomi in southern Michigan. The Tribes in this study were federally reaffirmed in the late 1900's (Wemigase 2005; Low 2006).

### *Natural Environment*

The physical environment has played a great role in the development of Anishinaabe culture. According to Wemigase (2005), woodland indigenous settlement was dependent on the natural resources at hand. "Life at Waganakising in the 1700's was closely tied to the land and water. The settlements in summer were all located next to Lake Michigan. The lake provided not only fish but was also the most important transportation system for the Odawak during this time" (Wemigase 2005, p. 20). Water resources, whether Lake Michigan, other lakes, rivers, and wetlands, are important to the five Tribes included in this study (Wright 1996). Natural resources such as the black ash tree, birch tree, porcupine, maple sugar, and fish remain of cultural and spiritual significance to the Anishinaabe in (Blackbird 1887; Kinietz 1965; Wemigase 2005; Low 2006). The five Anishinaawbek Tribes in this study are discussed in great detail in Chapters Four and Five.

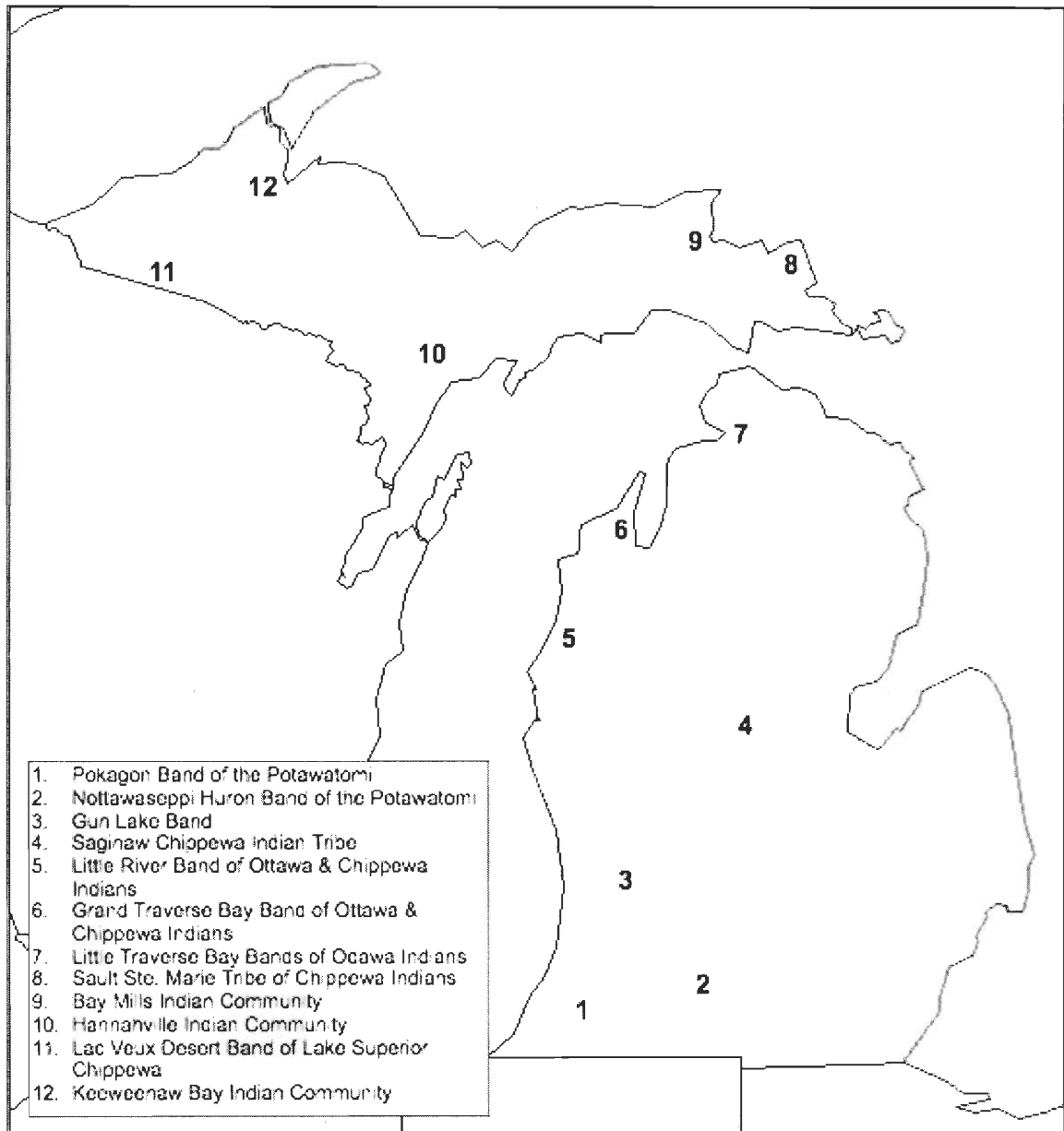


Figure 1. Federally Reaffirmed Tribes in Michigan

### *Tribal-State-Federal Relationship*

Inter-Tribal organizations such as United Tribes of Michigan, directed by Frank Ettawageshik of LTBB, provide Michigan indigenous peoples a joint opportunity to promote indigenous preservation and conservation of natural resources. According to their website, United Tribes of Michigan is an effort to unite American Indians to protect

their mutual interests, including environmental. Michigan Tribes also interact with State and Federal environmental institutions to plan for, and make decisions concerning, the management of Tribal land and natural resources. Among these non-Tribal organizations are the Department of Environmental Quality, Department of Natural Resources, and Environmental Protection Agency. The State and Federal environmental institutions with which Michigan Tribes interact will be discussed further in the literature review (Chapter Three).

Little is documented about the contemporary roles Tribes, States, and the Federal government have concerning Tribal environmental planning, management, and decision-making. Even less is documented regarding this relationship in Michigan from the perspective of the Tribe. The purpose of this research is to explore this relationship within Michigan, narrated by Tribal perspective. Given the historical conflict and changing dynamics between Tribes, the State, and Federal government, it is probable that conflict exists in the contemporary relationship between Michigan Tribes, the State of Michigan, and the Federal government. Environmental planning, management, and decision-making by Tribes in Michigan is likely adversely affected by this conflict.

### **Organization of Thesis Chapters**

This thesis is composed of seven chapters. Chapter Two discusses the differences in environmental ideology between indigenous and Western peoples. Chapter Three presents historical and contemporary dynamics and the development of the Tribal-State-Federal relationship as it pertains to Tribal environmental planning, management, and decision-making. Chapter Three begins with relevant literature and research in the broader field and narrows to include relevant literature and research specific to Michigan

(when possible). Arguments that support or contradict the research problem, question, and hypothesis are acknowledged and confronted. The methodology, Chapter Four, explains the processes undertaken to research the Tribal-State-Federal relationship narrated by Tribal perspective, including data collection, justification of research methods, and research timeline.

The interview responses of Tribal employees are presented in the results chapter, Chapter Five. These results are analyzed for discussion in Chapter Six, through careful synthesis of emerging themes. The extent to which Tribal employees agree or disagree, across and between Tribes, will be discussed. Current problems and successes in the Tribal-State-Federal relationship as pertaining to Tribal environmental planning and management will be identified. Finally, opportunities for better practice between Tribal, State, and Federal governments will be suggested, so as to ensure the most successful Tribal environmental planning and management programs and policy. The last Chapter, Chapter Seven, will draw conclusions from this research and make suggestions as to the direction and scope of future research in this field.



## CHAPTER II

### ENVIRONMENTAL IDEOLOGY

*While it may appear that Indians are adopting the values and practices of American culture, in the field of human knowledge - in science, in religion, and in forms of social interaction, most prominently in government - there is still a tremendous gap between the beliefs and the practices of both whites and Indians - Vine Deloria, Jr. (1995)*

#### **Introduction**

The purpose of the literature review is to frame the research problem - the influence of the Tribal-State-Federal relationship on Tribal environmental planning and management. This study divides the literature review into two sections centered on Tribal-State-Federal conflict. This chapter illustrates the difference in environmental perspective between indigenous and Western peoples. Indigenous and Western environmental ideology conflicted before a relationship between the two peoples was formalized. The difference in indigenous and Western environmental ideology plays an essential role within Tribal-State-Federal relationship. Chapter Three discusses the conflict that resulted from the formalization of Tribal-State-Federal relations through various legislative measures. Both chapters combine background information and specific research studies to present a complete picture of the Tribal-State-Federal relationship and its components, analyze research methodologies employed in this field, and demonstrate the research gap this study intends to fill.

#### **Western and Indigenous Environmental Perspective**

The transition from indigenous to Western environmental perspective in North America changed the cultural and natural landscape. This section introduces and defines Traditional Ecological Knowledge (TEK) and contrasts this indigenous environmental

perspective to Western environmental ideology. This section also includes research conducted in multiple geographic regions within North America concerning TEK and indigenous environmental planning and management.

Wildcat (2009) described the relationship between indigenous and non-indigenous peoples in the United States, writing, “A careful reading of American history will confirm that we have not been “included” into this United States so much as enclosed within it” (p. 33). The United States was founded largely without regard for indigenous well-being and best practice. Many indigenous peoples were militarily removed from their land during several forced relocations by the Federal government, in an effort to free up land for Euro-American settlers. The Euro-American settlers who colonized the United States brought their environmental perspective, rooted in Western ideology.

Between 1492 to 1945, indigenous peoples, environmental practice, and TEK were replaced by Western settlers and ideology (Welch 2006). Just as non-indigenous peoples became the dominant actors on the natural environment, Western environmental ideology became and remains the dominant environmental perspective from which American land and resources are planned and managed. According to Bengston (2004), the indigenous people of the U.S. experience, access, and use physical environments without a means of managing that land themselves. Instead, these spaces are interpreted, defined, and controlled by Western perspective without regard for indigenous opinion or traditional methods.

The implications of the transition from TEK to Western environmental ideology are great for indigenous peoples. Wildcat (2009) wrote, “...it makes a crucial difference whether humankind thinks of the natural world as consisting of relatives or resources” (p.

64). LaDuke (1999) wrote of the importance of indigenous environmental perspective in the formation of Indigenous policy, “We are nations of people with distinct land areas, and our leadership and direction emerge from the land up” (p. 4). LaDuke (1999) goes on to say that each indigenous nation must handle environmental planning and management issues uniquely - one-size-fits-all indigenous environmental policy is inadequate. If indigenous environmental perspective is spatially and circumstantially appropriate, non-indigenous (Western) environmental ideology is certainly inadequate to address indigenous environmental planning and management today.

Indigenous and Western environmental ideologies were unique before these two peoples made contact with one another. After an imperialistic relationship formed between indigenous peoples in North America and Western immigrants, Western environmental ideology became the dominant tool in planning for and managing the natural environment (Wildcat 2009). While TEK and Western environmental ideology share some similar concepts, the perspectives differ in several ways. Wildcat (2009) argues the importance of understanding these differences and suggests humans return to TEK as a valuable alternative to Western environmental ideology: “The web of life, if taken seriously, implies that our human intelligence must be framed in the context of learning how to live well and sustainably as one small but powerful part of nature, as opposed to strategizing how to manage nature” (p. 6). The differences between TEK and Western environmental ideology are described next. These differences illustrate why the natural environment became and remains a contentious issue in the Tribal-State-Federal relationship.

### *Origin of Indigenous and Western Environmental Ideology*

Wildcat and Pierotti (2000) define and contrast TEK to Western environmental ideology and illustrate several key distinctions between the two environmental perspectives. TEK, like the indigenous peoples who hold it, is a diverse body of knowledge. It is inaccurate to assume Wildcat and Pierotti's (2000) definition of TEK exactly encompasses the TEK of the Michigan Tribes included in this study. Regardless, the authors offer a thorough framework from which to understand the basis of TEK and indigenous environmental practice, in general. The purpose of this section of the literature review is to illustrate the distinctions between TEK and Western environmental ideology and demonstrate their importance within the Tribal-State-Federal relationship. The difference between indigenous and Western environmental ideology is most evident as to where humans rank in relation to the natural environment.

Modern Western science originated from industrial centers such as Europe, North America, and parts of Asia in which clear distinctions between the built and natural environment were made. According to this perspective humans are autonomous from the natural world (Wildcat and Pierotti 2000). Natural resources exist to provide for and sustain human development. This attitude places humans as a dominant force positioned above the natural world which encourages the exploitation of the natural environment in order to maintain the built environment. Locke (1952) wrote that "...nature existed primarily for facilitating the comfort and convenience of humans" (*in* Wildcat and Pierotti 2000, p. 1334). This hierarchy of humans over the natural world, an "extractive approach", featured heavily in Western culture until the 1960s.

During the 1960s, the environmentalism movement gained momentum as environmental damage became apparent throughout the landscape (Wildcat and Pierotti 2000). At this time, Western environmentalists began advocating that natural landscapes, resources, and species be set aside from human use, consumption, and exploitation to protect what natural features remained. Several pieces of United States legislation document this transition including the U.S. Wilderness Act of 1964, the National Environmental Policy Act of 1969, and the Endangered Species Act of 1973. Wildcat and Pierotti (2000) argue that these acts are simply more of the same, setting humans apart from nature using a “conservationist approach”. Whether separating the natural world for economic or aesthetic purpose, these extractive and conservationist approaches both exploit nature as being something of value (Wildcat and Pierotti 2000).

Indigenous environmental perspective, embodied by TEK, views humans as directly interlinked with the natural environment without hierarchical position, “The idea of human history existing independently of local places and the natural world is foreign to the native peoples of North America, because for them their history cannot be separated from the entire geography, biology, and environment to which they belong” (Wildcat and Pierotti 2000, p. 1334). According to TEK, humans and the natural environment are not independent of one another, “In essence, TEK requires one to be native to a place and to live with nature, in contrast to the dominant Western worldview, which assumes humans live above, separated, or in opposition to nature” (p. 1335). To be “native” to a place requires that humans abstain from manipulating the natural environment solely for human benefit. Therefore, doing away with the Western view that “space exists to be conquered” (Wildcat and Pierotti 2000, p. 1335).

## TEK Concepts and Values

### *Interrelated Foundation*

Western ideology assumes humans are able to control nature because humans are separate from nature (Wildcat and Pierotti 2000). TEK challenges this assumption with indigenous environmental concepts and values. Centuries of relying upon the natural environment for nutrition, shelter, and comfort has encouraged indigenous peoples to thoughtfully observe the daily interactions of natural beings. A major component of TEK is the, "... realization that no single organism can exist without the web of other life forms that surround it and make its existence possible (Wildcat and Pierotti 2000, p. 1336). Western culture is quick to question or dismiss TEK as a "science", though TEK and Western environmental ideology share foundational values. TEK and Western science, such as the discipline of community ecology, are similar in that both perspectives recognize the interrelationships between natural species and landscapes (Wildcat and Pierotti 2000). Despite similarities between Western and indigenous perspective, this TEK perspective is often overly romanticized by Western culture. Wildcat and Pierotti (2000) argue, "...this is not a mystical concept based upon great mysteries, but a practical recognition of the fact that all living things are literally connected to one another" (p. 1336).

### *Nature-Centered Community*

Because TEK recognizes the interrelationships between all living things, indigenous peoples do not distinguish "nature" from "home" (Wildcat and Pierotti 2000). For example, "What we call nature is conceived by Native peoples as an extension of biological man, and therefore a Native never feels 'surrounded by nature'...but he is

entirely surrounded by cultural meanings his tradition has given to his external surroundings” (Wildcat and Pierotti 2000, p. 1336). Therefore, the community within which an individual lives is represented by both human and non-human elements. This has great implications for the indigenous ethical perspective, particularly in the mannerisms and behavior indigenous peoples value. In contrast to the dominant Western ethical perspective, which defines appropriate human behavior in accordance to human relationships, TEK instructs humans to behave with regard to non-human relationships (Wildcat and Pierotti 2000). This implies that cultural, political, and environmental policies should account for both human and nonhuman success, because TEK includes all living beings as part of community.

Recognizing nonhuman beings as part of the human community clearly distinguishes indigenous and Western environmental perspectives. “Acknowledging nonhumans as teachers and elders requires that we pay careful attention to their lives, and recognize that these lives have meaning on their own terms” (Wildcat and Pierotti 2000, p. 1337). Western ideology recognizes nonhuman components of the natural world as meaningful only in the potential value that they provide to human society. TEK has long recognized that human beings evolved from nonhuman beings, as multiple indigenous cosmogonies point to the existence of animals before human existence. Western ideology has only recognized the legitimacy of evolution since Charles Darwin first proposed the idea in 1859. Wildcat and Pierotti (2000) wrote, “Darwin’s accomplishment served to establish in Western thought one of the long-standing tenets of TEK, i.e., humans are related to nonhumans and irrevocably connected to the natural world” (p. 1337).

### *Connectedness between Humans and Nonhumans*

Recognizing that humans are directly related to nonhumans encourages indigenous peoples to acknowledge humans' role within the natural environment. The activities of humans bear important consequences on the lives of nonhumans, and vice versa (Wildcat and Pierotti 2000). Indigenous peoples realize humans are embedded in the natural environment and not hierarchically placed above other species. This component of TEK extends to the food cycle, "Native peoples also recognize that they may be potential prey for other large carnivores, which is opposed to the prevailing idea in Western culture that any predator that takes a human life must be killed as if it were a criminal" (Wildcat and Pierotti 2000, p. 1337). Humans are thought to be both natural predators and prey. This concept has great implications for environmental planning and management, as some hunting seasons in the United States are established by Western environmental scientists because a nonhuman species is harming humans or human livelihood. The State of Michigan is currently considering a hunting season for wolves in the Upper Peninsula. One of the main reasons cited by legislators in favor of a wolf hunt is that wolves are preying on livestock and household pets (Williams 2012). The indigenous environmental perspective does not place more value on humans than nonhumans by separating the two. Rather, TEK places value on humans and nonhumans entities equally (Forbes 2001).

### *TEK Summary*

The unique characteristics of the indigenous environmental perspective relative to the Western environmental perspective are summarized in Table 1.



**Table 1. *TEK vs. Western Environmental Perspective***

<b>TEK</b>	<b>Western</b>
Places equal value on humans and nonhumans	Places value on humans over nonhumans
Nonhuman environment valued intrinsically	Nonhuman environment valued for what it can provide to humans
Human behavior should account for both human and nonhuman success	Human behavior should account for human success

### **Case Studies: TEK in Practice**

The following examples demonstrate the use of TEK by indigenous peoples in Canada and South Dakota. The role of Tribal-State-Federal relations concerning Tribal application of TEK is also discussed. It is important to note that these peoples and Tribes are unique from the Michigan Tribes involved in this thesis. The natural resources of concern, environmental knowledge, and Tribal-State-Federal relations presented below do not necessarily reflect the experience of Michigan Tribes. However, the scope of these studies, including the methods used, is similar to the scope of this thesis.

#### *TEK of the Interior Salish Peoples, British Columbia*

Turner, Boelscher Ignace, and Ignace (2000) researched the TEK W (Traditional Ecological Knowledge and Wisdom) of indigenous peoples in British Columbia, Canada to illustrate the applicability of TEK W in the harvesting of specific plant species. The authors based their findings on personal communication between the Interior Salish peoples of British Columbia. The authors added several components of TEK W to those previously mentioned, including knowledge transfer of TEK W through culturally significant events and gatherings. Despite Canadian legislation that banned such events

from taking place, food ceremonies continue to serve a vital role in the transfer of TEK W between generations (Turner et al. 2000). Turner et al. (2000) concluded that all persons concerned with environmental planning and management should, "...respect, recognize, and apply TEK W of indigenous peoples, with their full participation and collaboration" (p. 1285). Indigenous culture is negatively affected when TEK W is ignored or misrepresented (Turner et al. 2000).

### *South Dakota and the Lakota: Bear Butte Land Management*

Not only might Western environmental planning and management be inadequate for indigenous environments, Western management policies may harm indigenous environment and culture: "Current land-management strategies, including multiple-use policies can undermine the sacredness of specific areas" (Forbes-Boyte 1996, p. 100). This is one of the conclusions Forbes-Boyte (1996) draws from her time with the Lakota people, in the Black Hills of South Dakota, studying their perceptions of Bear Butte. This hill is sacred to the Lakota because it is used for religious purposes such as vision quests and routine prayer (Forbes-Boyte 1996). In the 1960s Bear Butte became a State park as part of the South Dakota House Bill 769 to be managed by the South Dakota Department of Game, Fish, and Parks. The acquisition of Bear Butte caused tension between the Lakota people and State of South Dakota because the State's plans for Bear Butte did not integrate with the Lakota perception of Bear Butte's function (Forbes-Boyte 1996). Infrastructure was developed including roads, trails, and public restrooms, to facilitate access to the site by tourists. The Lakota argued this activity infringed on their right to religious freedom because the State's plans for Bear Butte limited Lakota use of the site (Forbes Boyte 1996).

Forbes-Boyte (1996) studied the Lakota perception of Bear Butte by conducting ethnographic interviews with twenty-five Lakota individuals. The purpose of her research was to identify effective land management strategies for Bear Butte which support the Lakota TEK. She writes of Lakota TEK, “The environmental ethics of the Lakota, based upon an awareness of humans’ interdependent relationship with the earth, hold great reverence for the land” (Forbes-Boyte 1996, p. 103).

Forbes-Boyte (1996) found the Lakota and State of South Dakota have very different perceptions of how Bear Butte should be managed, “For example, land managers are concerned about the impact on natural resources after frequent use of the ceremonial grounds. The Indians view this differently. Because of the increase in tourism on the site, they are unable to use the entire mountain; thus they are forced to overuse some sites” (p. 112). She learns that more communication between Lakota and State environmental planners and managers may improve the situation, but the legal and congressional climate under which the Lakota operate does not currently support their right to oversee activity on Bear Butte (Forbes-Boyte 1996). Their argument that Bear Butte is a culturally sacred site, and is therefore afforded to the Lakota under several Federal religious freedom acts such as the National Historic Preservation Act of 1966 and American Indian Religious Freedom Act of 1978, is not adequately supported under current Federal law (Forbes-Boyte 1996). In order for the Lakota to sufficiently practice religious and environmental freedom, “The United States government must go beyond ineffective acts and poorly executed administrative policies” (Forbes-Boyte 1996, p. 116).

### *Practical Environmentalism on Pine Ridge*

Pickering Sherman, Van Lanen, and Sherman (2010) also studied conflict between Lakota, State, and Federal interests concerning environmental stewardship. Their research was the culmination of a seven year study, based on field surveys and interviews with the residents of Pine Ridge Indian Reservation in South Dakota. They illustrated that Lakota environmental ethics emerge from their physical connection to place and term this connection “practical environmentalism”. However, Pickering Sherman et al. (2010) identified non-indigenous land policies as obstructions to Lakota peoples’ connection to their natural environment and therefore, their ability to practice practical environmentalism, “... Tribal, State, and Federal land policies create structural barriers that reduce access of Lakota households to the land, which in turn reduces adaptability and resilience in their ecological practice” (p. 507). Specific structural constraints to the community-based stewardship preferences of the Lakota include land allocation, the influence of Western ideology over indigenous knowledge in Federal and State land-use policy, and the complicated bureaucratic network through which changes in land-use policy must pass and be approved (Pickering Sherman et al. 2010).

### **Summary**

The literature presented in this chapter is by no means a complete discussion of the conflicting environmental ideologies between indigenous and Western peoples. This chapter illustrated several differences in environmental perspective between indigenous and Western peoples, which existed before the two cultures made contact with one another, including different perspectives regarding: human and nonhuman relations, the value of the natural environment, and appropriate human behavior towards the natural

environment. Several case studies demonstrated the consequences of conflicting indigenous and Western environmental ideology, concerning indigenous peoples in British Columbia and South Dakota, including structural barriers affecting indigenous environmentalism. Chapter Three will discuss the conflict that resulted from the formalization of Tribal-State-Federal relations through various legislative measures.

CHAPTER III  
AMERICAN INDIAN LEGISLATION AND AUTHORITY

**Introduction**

This chapter presents the conflict between Tribes, States, and the Federal government after a formal relationship was declared between these three entities. As in the previous chapter, this analysis uses background information and specific research studies to present a complete picture of the Tribal-State-Federal relationship and its components, analyze research methodologies employed in this field, and demonstrate the research gap this study intends to fill. First, American Indian legislation is presented chronologically - from the beginnings of Tribal-State-Federal relations to present time. This section places the Tribal-State-Federal relationship within its historical framework and illustrates the changing roles of Tribes, States, and the Federal government and the resulting conflict. Next, the rights to Tribal lands and resources are presented, including the breakdown of environmental jurisdiction between Tribal and non-Tribal municipalities. Finally, the potential for co-management of the natural environment, between Tribal, State, and Federal governments, is analyzed.

**American Indian Legislation**

The relationship between indigenous Tribes, State governments, and the Federal government, beginning with indigenous Tribes and Euro-American settlers, cannot be neatly summarized. This relationship is characterized by conflict, including cultural, social, political, economic, and environmental tensions. It is not the intent of this thesis to detail every obstacle, transition, and milestone of the Tribal-State-Federal relationship. Rather, the details pertaining to environmental planning and management will be

introduced, including pertinent legislation signed between indigenous Tribes and the United States government. The history of this legislative relationship must be understood, in order to achieve this thesis' purpose - to understand how this current American Indian legislation influences the Tribal-State-Federal relationship and therefore contemporary Tribal environmental planning and management.

The legislation presented in this section of the literature review is by no means an exhaustive list of American Indian policy in the United States. A comprehensive overview of American Indian legislation may be found in *The Nations Within: The Past and Future of American Indian Sovereignty* (Deloria and Lytle 1984) and *Contemporary Native American Issues: Political Issues* (Welch 2006). Deloria and Lytle (1984) write, “No area of Federal law is more complicated or requires more expertise than Federal Indian law. Hundreds of treaties, thousands of statutes, and hundreds of thousands of administrative rulings and actions are involved in Federal Indian law” (p. 265). The American Indian legislation that is, in the author’s opinion, most pertinent to the political relationship between indigenous Tribes and American government, Tribal land, and Tribal resources is discussed. This section introduces American Indian legislation in chronological order, so as to demonstrate the evolving legal relationship and power dynamics between Tribal-State-Federal governments.

#### *Early American Indian Policy*

Indigenous peoples believe they possess inherent sovereignty, not be granted or taken by non-indigenous peoples. Sovereignty may be defined as, “...independence from other States, the uncontested authority to govern” (Hibbard, Lane, and Rasmussen 2008, p. 137). The States and Federal government of the United States do not recognize

indigenous peoples as inherently sovereign. Rather American Indian sovereignty is a right which was granted and taken away by the Federal government several times during the course of American Indian legislation. The sovereignty of indigenous Tribes in the United States was formally recognized by the Federal government in 1787, under Article 1, Section 8 of the American Constitution (Welch 2006). This clause delegates to Congress the sole power to make treaties with American Indian Tribes. Treaty-making between indigenous peoples and the United States government assumes sovereignty of both parties. Welch (2006) explains, “One enters into treaty negotiations only with another country” (p. 14). The Northwest Ordinance of the same year further legitimized Tribal sovereignty in the eyes of the Federal government, along with Tribal rights to indigenous lands.

The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and, in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity, shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them... (Continental Congress 1787, p. 2).

The Northwest Ordinance made clear the possibility, perhaps intention, of future Federal legislation enacted concerning American Indians (Welch 2006).

During the 1800s the policy of “Gradualism” guided relations between the Federal government and American Indian Tribes. “Gradualism involved using treaties, bribes, promises of aid, and, when necessary, threats of military force to divest Indian



peoples of their lands (Welch 2006, p. 15). Several key developments of this time were the creation of the Bureau of Indian Affairs (BIA) in 1824 under the war department and the Indian Removal Act of 1830. The Indian Removal Act reconsolidated American Indian Tribes onto portions of their existing homeland or new land entirely (Welch 2006). Then in 1887, Congress tried a different approach to access American Indian territory - the General Allotment (Dawes) Act. This legislation further reduced American Indian land ownership by dividing Tribal land into small parcels and allowing one allotment per household. The remaining land was then sold to non-indigenous interests. Finally, the Federal government terminated the ability of Tribes to self-govern Tribal land with the Curtis Act in 1898 (Welch 2006). These imperialistic anti-American Indian policies of the 19th century marked the beginning of an adversarial relationship between indigenous Tribes and the United States government.

In the 1900s, Congress attempted to restore balance into the relationship between indigenous Tribes and the Federal government by passing the Indian Reorganization Act (IRA) in 1934. The IRA ended the practice of allotment and allowed indigenous Tribes the power to create their own governments in an attempt to reestablish Tribal sovereignty in the eyes of the Federal government (Welch 2006). The IRA also directed Federal funds towards Tribal governments, but only those who were recognized as legitimate organizations. Therefore, indigenous peoples off the reservation or those belonging to unrecognized Tribes or bands were not included. Legitimate Tribes were required to organize their government similar to Western government. The IRA cited that this allowed for further protection of Tribal interests and allowed for better cooperation between Tribal and non-Tribal governments. Deloria and Lytle (1984) argue the Federal

government had little interest in protecting Tribal rights, but was attempting to assimilate Tribal governments so as to gain more control over indigenous peoples. Welch (2006) wrote, "... many Indian peoples saw no independence in yet another Federal policy in which they had little voice" (p. 28). The IRA was not a complete success, but marked an attempt to distinguish American Indians as independent from the United States, a distinction that would continue to be challenged by Federal policy.

#### *American Indian Policy post WWII*

Literature concerning American Indian legislation usually cites land or resource acquisition as the central motivation for Federal policy concerning indigenous peoples (Deloria and Lytle 1984; Welch 2006; Hibbard et al. 2008). This is certainly the case in American Indian legislation after WWII. The growing economy of the United States resulted in increasing demand for land and therefore skyrocketed land prices. Indigenous territory offered valuable land and natural resources the post-war housing boom required (Welch 2006). Congress created the Indian Claims Commission in 1946 seeking to end Federal treaty responsibilities to indigenous Tribes, terminate Federal reaffirmation of Tribal self-government, and eliminate all Federal legislation that protected Tribes from the States' desire for more land and resources (Welch 2006). This policy, known as termination, continued until the Civil Rights movement in the 1960s and 1970s. Welch (2006) argues there is no doubt as to the motivation behind American Indian termination policy, "As was true of past acculturation policies, this one was also essentially a land grab... Sheer greed was in play here, not concern for Indian welfare (p. 31).

Civil Rights took center stage in American politics in the latter half of the 20th century, including the rights of American Indians. In 1975, the Indian Self-Determination

Act and Education Assistance Act was passed, providing the management of Federal American Indian funding to be overseen by Tribal organizations and re-recognizing the autonomy of select indigenous Tribes (those who had been previously recognized by the Federal government). This policy marked the transition from termination to cultural pluralism which acknowledges the co-existence of Tribal, State, and Federal government in the United States (Welch 2006). However, the Indian Self-Determination Act did not recognize complete Tribal sovereignty for those indigenous Tribes included in the legislation. Rather, the status of Tribes as “domestic-dependents” was enforced, implying that Tribal governments, “... now became wards of the Federal government, which in its trustee capacity, would be responsible for their welfare” (Welch 2006, p. 73). Welch (2006) uses the phrase “nations within nations” to describe the autonomy of Tribal governments in the United States today - separate from, but dependent on, the Federal government (p. 80).

#### *American Indian Legislation and Self-Determination*

After several centuries of assimilation and termination, in which anything “Indian” was either encouraged to blend in with the rest of America, or eliminated, the Indian Self-Determination Act shifted power back into the hands of indigenous Tribes. “Tribal governments emerged in the closing decades of the twentieth century in a much better position and with higher status than they had entered it” (Deloria and Lytle 1987, p. 24). The enhanced role of Tribes within the Tribal-State-Federal relationship is far from perfect. Deloria and Lytle (1987) point out that the local Tribal governments who now had a better ability to serve their citizens very much resembled other local non-Tribal organizations, and “possessed little that was distinctly Indian” (p. 24). These

assimilated institutions were necessary in order for the Tribe to effectively work with the States and Federal government, after which the Tribes were now modeled after (Deloria and Lytle 1987). Even after Tribal organization received a Western facelift, communication issues arise between Tribal, State, and Federal representatives. Regarding Federal response to Tribal concerns, Deloria and Lytle (1984) wrote,

Unable to deal with the larger moral issues at stake, they frequently dismissed the positions taken by the Tribal peoples as romanticism, failing to realize that the people were describing process of national interaction, not adjustments in the existing institutional framework (p. 241).

While Tribal officials recognize their government-to-government relationship with the State and Federal governments, non-Tribal officials are slow to this recognition (Deloria and Lytle 1983; Deloria and Lytle 1984).

The legal and political system that has propelled the Federal government to recognize Tribes as self-governing is based on mistrust and competition for land and resources. Tribal sovereignty has been legally declared several times in the course of Tribal-State-Federal history, but is not realized to its full extent (Deloria and Lytle 1984). However, Tribes of the 21st century have realized their ability to reclaim culturally significant sites, land parcels, and rights to resources. The interests of Tribes are increasingly favored in court, “Because of ambiguities arising out of the complicated 200-year legacy of Indian law, the U.S. Supreme Court has gradually developed canons of interpretation that, applied in close cases, often decide controversy in favor of Indian Tribes” (Keller 1989, p.124). Momentum is on the Tribal side and there exists an “...entirely new expression of Indian communal and corporate existence. We are just

beginning to recognize the nature of this expression” (Deloria and Lytle 1984, p. 267). Contemporary American Indian legislation reinforces indigenous self-determination. Tribal governments are becoming key players in environmental planning and management policy.

### *Tribal-State Relationship*

The American Indian legislation presented so far has discussed negotiations at the Federal level, concerning indigenous peoples in the United States. What is the State’s role in this process? The Federal government’s legal role as trustee to indigenous Tribes is meant to protect Tribes from State pursuit and acquisition of Tribal lands and resources. In 1959, *Native American Church v. Navajo Tribal Council*, a Federal court ruled that “Indian Tribes are not States. They have a status higher than States” (Wilkins 1998, p. 55). Nonetheless, States have generally assumed political superiority over indigenous Tribes (Wilkins 1998). The relationship between the States and indigenous peoples has been adversarial from the beginning, encouraging controversial decisions within the Tribal-Federal relationship (Jarding 2004). For example, the States’ desire for indigenous land spurred Congress to pass the Termination policy post-WWII (Welch 2006). After Indian citizenship was granted in 1924, multiple States enacted Jim Crow laws to keep indigenous peoples from voting. Until 1950, it was considered illegal to declare oneself of Indian heritage on a birth certificate in the State of Virginia (Welch 2006). The U.S. Supreme Court famously described States as the “deadliest enemies” of Tribes in 1886, in response to State violation of Tribal authority and rights (Steinman 2004).

Hibbard et al. (2008) discussed why States are threatened by indigenous Tribes,

“Their [the Tribes] increasingly forceful claims for economic and social equity, for control of land, resources, and culturally significant places, and for political autonomy threaten powerful private economic interests that benefit from control of land and resources. And more abstractly, they threaten the State itself” (p. 137).

While Federal law recognizes the government-to-government relationship between Tribal-State-Federal governments, State officials are reluctant to admit a level playing field. A successful Tribal-State relationship “... demands a recognition of the basic treaty relationship without making it distasteful to local legislators who often chafe at the idea of accepting Tribal governments as equal political entities” (Deloria and Lytle 1984, p. 263). The States’ reluctance to recognize Tribal sovereignty, and therefore Tribal authority, is partly based on conflict between Tribal and State governments concerning shared natural land and resources.

### **Tribal Lands and Resources**

This section presents issues related to Tribal environments including resource jurisdiction responsibilities shared between Tribal and non-Tribal authorities and Tribal land development.

#### *Land Jurisdiction*

The American Indian policies discussed previously led to the definition of Tribal lands as “any lands title to which is either: (1) held in trust by the United States for the benefit of any Indian Tribe or individual; or (2) held by any Indian Tribe or individual subject to restrictions by the United States against alienation” (Schmidt and Peterson 2009, p. 1460). Though Federal and State policies have been imposed on indigenous

Tribes for much of American history, the political and economic climate post-Civil Rights Era has encouraged Tribes to become significant players in the planning for and management of Tribal lands and resources (Hibbard et al. 2008). But disagreements continue to occur between Tribal and State governments concerning land ownership rights, and subsequently, how land and resources are planned for and managed. For example, “In the West, the States, local municipalities, and Indian Tribal governments continue to tussle over scarce water resources” (Welch 2006, p. 102). Hibbard et al. (2008) adds that “...ongoing conceptual, legal, and political tensions between indigenous enclaves and nation States over questions of land and resource ownership and management” exist between Tribes, States, and the Federal government (p. 137).

Disputes between Tribal, State, and Federal governments are influenced by jurisdiction, or whether the situation of concern occurred within “Indian Country” (Smith and Guenther 1981; West 1992). Indian Country “... encompasses all land within reservation boundaries, however owned or held. Thus, it includes trust land held individually and by the Tribe, allotments, fee land, whether owned by Indians or non-Indians, and any other land within the reservation boundaries” (West 1992, p. 88). Currently, environmental use and management of these lands are subject to Tribal *and* non-Tribal authority (Smith and Guenther 1981). For example, Tribal governments are responsible for regulating land use and zoning of areas within Indian Country and of areas external to Indian Country but demographically American Indian. States and counties do not have the power to interfere in this process except on areas external to Tribal jurisdiction that are at least fifty-percent non-American Indian (West 1992).

However, jurisdiction over natural resources rights and management is decidedly more complicated (Smith and Guenther 1981).

### *Natural Resources Jurisdiction*

Non-Tribal government has significant authority concerning mineral and timber production within Indian Country (Smith and Guenther 1981). First, the Federal government controls much of the leasing of Indian Country for natural resource extraction. Second, States' right to mineral production within Indian Country is generally given precedence. West (1992) wrote,

“Federal, State, and Tribal governments all assert some regulatory authority over environmental matters on Indian lands. The primary issues in the area of environmental regulation have concerned State attempts to implement State environmental programs in Indian Country, and whether Tribes are on the same footing as States under Federal statutes regulating the environment” (p. 94).

Legislation in place to protect Tribal access of natural resources from State infringement is often difficult to understand or enforce. “Treaties always mean more than their articles and words seem to say” (Keller 1989, p. 119).

Despite the historical tendency of Federal and State governments to ignore or minimize Tribal authority concerning environmental matters, Tribal rights to environmental planning and management are increasingly becoming recognized. In 1984, the Environmental Protection Agency (EPA) declared for the first time that Tribal governments hold the responsibility for establishing environmental standards and programs on Tribal lands (West 1992). One of the most contentious issues between Tribal and non-Tribal interests is that of water rights (West 1992). Because water features



permeate political boundaries between Tribal and non-Tribal municipalities, it is difficult to delineate authority for water resources management. For example, Tribes have the authority to manage water resources within Indian Country when the use and regulation of the water resources does not impact non-Tribal lands. On the other hand, States have the authority to manage Tribal water resources when the water resource flows beyond Tribal boundaries (West 1992). The Tribal-State relationship concerning water resources is complex and conflicted as to which entity, Tribal or State, possesses the authority to manage shared water resources (West 1992).

#### *Influence of the Tribal-State-Federal Relationship*

Snipp (1986) studied the historical development of the Tribal-State-Federal relationship in order to better understand the implications of Tribal sovereignty on Tribal land and resources. He concluded that the current political climate did not recognize Tribes as fully independent from State and Federal influence (Snipp 1986). Rather, Tribes are “internal colonies” possessing a limited degree of sovereignty but still dependent on State and Federal assistance (Snipp 1986). States’ reluctance to recognize Tribal sovereignty, and therefore Tribal authority, is partly based on conflict between Tribal and State governments concerning shared natural land and resources. Snipp (1986) describes indigenous lands as “...developed primarily for the benefit of the outside, non-Indian economy” (p. 471) and argues that leasing arrangements have essentially replaced the US-Indigenous wars, treaty negotiations, and reservation acts pre-1900. Tribal economies remained environmentally repressed by the Federal government following United States independence from Britain (Snipp 1986). As a means to regain an economic foothold in the US, many Indian Tribes leased their lands and resources to non-Indian interests. This

transaction between non-Indian interests and Indians was often unjustly figured and poorly documented. Snipp (1986) cited several examples of Indian Tribes underpaid by non-Indian organizations who sold valuable natural resources from Tribal land. These transactions proved costly to Indians, who often lost money, along with their rights to resource and land development.

Schmidt and Peterson (2009) analyzed the negative environmental and social consequences resulting from the paradoxical relationship between American Indians and the Federal government. In particular, indigenous self-determination is hampered by Federal policies, such as the Endangered Species Act, imposed on Tribal land and resources. “Increased Federal regulations and funding would appear to support biodiversity conservation on Tribal lands but could be detrimental to both conservation and Tribal self-determination if this process severs the connection between Tribal communities and the resources on which they depend” (Schmidt and Peterson 2009, p. 1461). In addition, restrictions are often placed on Tribal use of resources that are threatened by non-Tribal interests (Schmidt and Peterson 2009). The authors argue that restricting the ability of Native Americans to access, use, and manage natural resources on Tribal lands damages indigenous culture and economic activity. Instead of imposing restrictions on Tribal use of resources, non-Tribal institutions should encourage indigenous access to culturally-significant land and resources. Furthermore, indigenous environmental perspective should be integrated into State and Federal environmental practice (Schmidt and Peterson 2009).

## **“Co-Management” between Tribal-State-Federal Governments**

The importance of integrating the indigenous environmental perspective and practice into State and Federal land use and environmental planning has been recognized (Wildcat and Pierotti 2000; Hibbard et al. 2008; Pickering Sherman et al. 2010). The union of Tribal, State, and Federal environmental planning and management philosophies is an example of “co-management”. Co-management is the process of “decentralizing” environmental planning and management to allow “State managers and local resource users to address an array of crises, conflicts, and dilemmas surrounding common property resources” (Feit and Spaeder 2005, p. 147). Tribal and State governments are often concerned with the same resources as discussed previously. Co-management is an effort by both Tribal and non-Tribal municipalities to mediate conflict over land and resources (Feit and Spaeder 2005). Tribes were largely stripped of environmental rights when State and Federal governments claimed indigenous lands and resources as their own (Feit and Spaeder 2005). Contemporary analysis and legislation demonstrates that indigenous Tribes are challenging State and Federal environmental institutions to regain control over these resources and co-manage the natural environment.

### *Co-Management in Practice*

Kofinas (2005) studied environmental conflict between Gwichin caribou hunters and researchers in the northern part of the Yukon Territory, Canada, using ethnographic interviews to identify the perspective of the indigenous and non-indigenous interests involved. Kofinas (2005) noted that the co-management environmental policy that arose from this conflict blurred the boundaries of indigenous and Canadian jurisdiction, suggesting that, “The long-term durability of this arrangement and the future of its local

authority systems are unknown. Emerging from such processes are transformed authority systems, where the boundaries of indigenous and State authority systems are less defined” (Kofinas 2005, p. 190-191). Co-management shifts power from the State to indigenous interests and therefore threatens State control in terms of planning for and managing the natural environment (Kofinas 2005).

In fact, effective co-management between indigenous and State governments may depend on the willingness of indigenous interests and individuals to persistently challenge State and Federal interests (Spak 2005). An adversarial stance taken by indigenous governments toward the State is necessary to ensure the continuation of co-management practice (Spak 2005). Studies show that indigenous Tribes who are not aggressive, or even adversarial, in their approach concerning co-management between Tribal and State interests may enter into agreements with the State that offer mere lip-service to the integration of indigenous and State environmental practice (Deloria and Lytle 1984; Spak 2005). Even established co-management spurred by aggressive indigenous action may not effectively integrate indigenous and State environmental practice.

Some Tribes have successfully negotiated a co-management environmental plan with the State. Willis and Seward (2006) examined the ways in which Native American populations successfully integrated their traditional land management approach into Western resource management. The Washoe Tribe is an example of an indigenous community now working in partnership with the States of California and Nevada, concerning the planning and management of Lake Tahoe (Willis and Seward 2006). Anderson and Moratto (1996) argue that the real-world success of co-management may

be difficult to assess, but the benefits of co-management for the environment is evident. The authors assert the need for governmental resource management to incorporate indigenous knowledge and tradition into future environmental policy. They believe the best way to understand and incorporate TEK into State and Federal environmental practice is to conduct ethnographic interviews with Native American individuals because “Native American systems of knowledge about the environment have a great deal to teach resource managers” (Anderson and Moratto 1996, p. 200).

Hibbard et al. (2008) studied the intersection between indigenous Tribes, TEK, and land use planning. Their purpose was to educate planners about contemporary issues facing indigenous peoples regarding environmental planning and management within the Western-dominated planning discipline. The authors performed an extensive literature review on planning and related disciplinary documents. Their purpose was to make recommendations as to how planners may better incorporate indigenous environmental issues and the indigenous environmental perspective and knowledge, into the planning discipline (Hibbard et al. 2008).

Their literature analysis revealed an optimistic future for indigenous environmental planning, and the planning discipline as a whole because, “... Land and resource planning processes are now much less likely to ignore or dismiss indigenous concerns ... indigenous knowledge is now recognized as valid and is frequently utilized in planning...” (Hibbard et al. 2008, p. 147). Certainly, indigenous Tribes are increasingly present in environmental planning and management, but this may be attributed to indigenous resilience and persistence rather than acceptance and tolerance of the Western planning discipline (Deloria and Lytle 1984; Spak 2005). Hibbard et al.’s (2008) analysis

would have benefitted from speaking with indigenous environmental planners and land managers in the field, so as to gain a full understanding of the issues Tribes face today. Relying solely on literature, without obtaining personal testimony to draw conclusions concerning indigenous issues is shown to be problematic (Fixico 1996).

As with all facets of the Tribal-State-Federal relationship, co-management is complex, problematic, and at times, ineffective. Literature concerning co-management demonstrates a variety of factors that complicate the Tribal-State-Federal environmental relationship: the persistence of indigenous environmental interests, the need to integrate TEK into State and Federal environmental policy, and the resulting threat to State and Federal control.

### **Indigenous Research in Michigan and Nearby Areas**

The literature discussed thus far is meant to present a general overview of the indigenous environmental perspective, American Indian legislation, Tribal-State-Federal environmental conflicts, and co-management between Tribal-State-Federal governments. This section of the literature review focuses on the study area of this thesis - the State of Michigan. Several aspects of the Tribal-State-Federal relationship are highlighted, including controversy between Tribal and State interests over the Great Lakes fishing industry, an element unique to Michigan and surrounding Great Lakes States. Indigenous research in Michigan and surrounding geographic areas is limited. Michigan indigenous Tribes, their perspective concerning the Tribal-State-Federal relationship in Michigan, and the influence of this relationship on Michigan Tribal environmental planning and management will be discussed further in Chapter Four.

### *Tribal-State Relations*

Jarding (2004) acknowledged that while many studies have concerned Federal-State and Federal-Tribal relations, few have analyzed Tribal-State relations. His research examined land and resource issues between Tribes and States. Using a survey and follow-up interviews, he contacted environmental departments within all fifty States and 282 federally re-recognized Tribal reservations within the United States. With the exception of Alaska, every State as well as twenty-seven percent of Tribes was represented in his analysis. Surveys sent to State and Tribal governments were not identical but contained several similar questions to allow comparison between responses. Jarding (2005) divided the survey results into three categories: State and Tribal government capacity to deal with environmental issues, State-Tribal relations, and State policies related to Tribal environmental planning and management.

He found that both Tribal and State governments are under-equipped to handle many Tribal environmental issues. Native American land and resource concerns are mainly the concern of Tribal and the Federal government. Jarding (2005) suggests Tribal-State relations are adversarial, “Although most Tribal governments and contiguous States are in contact, the focus of these relationships is often conflict over control of land and resources” (Jarding 2005, p. 302). He finds that State bureaucratic officials approach Tribal environmental issues more cooperatively than do State elected officials, and suggested this may be attributed to more visible interaction between Tribal-State officials at the elected level, rather than through a bureaucratic office. Many non-Tribal and Tribal districts share boundaries and natural resources, thus increasing the presence of conflict within Tribal-State interaction. Perhaps most importantly, Jarding (2005) recognized that

States and Tribes have a unique relationship, “States do not treat Tribes as if they were other States or as if they were subservient local governments. Similarly, Tribal governments do not treat States as co-actors within a national-subnational framework” (Jarding 2005, p. 302). He also advocated more research be done in order to more thoroughly understand this complex relationship between Tribes, States, and the Federal government.

### *Tribal Resources*

Keller (1989) argues for the right of the Chippewa people in the Midwest to harvest maple sugar and wild rice, two culturally-significant resources and staple foods of indigenous peoples. The importance of the maple tree to Midwestern Tribes is understood by both indigenous and non-indigenous peoples. In 1840, a Michigan topographer noted, “No tree is held in higher estimation by the Indians than the sugar maple, and no source of complaint is more grievous than a separation from it, by removal to places where it is not found” (Higgins *in* Keller 1989, p. 124). Maple sugar is valued by indigenous peoples but their connection to the resource is not valued in legislative history (Keller 1989). Loss of land, forced removal and assimilation, and misunderstanding between Tribes in Michigan, Wisconsin, and Minnesota and the State and Federal governments resulted in little protection for maple trees as a food source (Keller 1989). Non-Tribal interests were far more interested in harvesting maple for timber rather than syrup, as lumber sold for a much higher price (Keller 1989). Even though treaty rights consistently support Tribal right to harvest maple sugar, and no Federal legislation exists to ban these rights, maple sugar has been denied to Tribes through various State and Federal channels.



“... We can at least acknowledge that yet another valuable natural resource was denied to Native Americans in their adjustment to white civilization, a loss to keep in mind when anyone voices a moral protest against native land claims, against protection of religious sites, or against treaty rights to fish and water” (Keller 1989, p. 128).

The Great Lakes and Mississippi River Interbasin Study Team (GLMRIS) studied the value of the fishing industry in Michigan, particularly indigenous subsistence fishing (Kappen Allison, and Verhaaren 2012). To analyze the value of Tribal subsistence fishing, this study relied on relevant treaties to determine which Tribes hold rights to fishing in the study area, then background information on traditional fishing practice and cultural significance of this resource was gathered. Next, the authors contacted several State and Tribal organizations to determine subsistence fishing practices employed by Tribes. Of the thirty-eight Tribal environmental departments contacted, visits by the GLMRIS team were made to only four due to a lack of response to the request for a visit.

Kappen et al.'s (2012) attempts to talk with Tribal natural resource departments illustrates the difficulties of working with indigenous peoples who may be wary of collaborating with Western scientists, given the history between both parties (Mihesuah 1998). Nonetheless, Kappen et al. (2012) drew several conclusions from their study. They noted that only a small segment of the Great Lakes Tribal population actively engaged in subsistence fishing. However, because indigenous culture dictates that harvesters share their catch, “... the importance of the subsistence harvest ripples through the community” (Kappen et al. 2012, p. 79). In fact, the cultural value seems to far outweigh the economic value of Tribal subsistence fishing.

“Tribal communities take their stewardship role over the natural resources very seriously, placing a high value on protecting and preserving natural resources, including native fisheries, for future generations. The value of fisheries goes beyond a monetary value; it is a cultural value that defines the existence of the Great Lakes Tribes” (Kappen et al. 2012, p. 79).

According to this study, Tribal fishing rights not only contribute to indigenous economies, but are an essential component of Tribal tradition and culture. However, Tribes continue the fight to secure permanent fishing rights on the Great Lakes.

The environmental and political implications of Michigan’s fishing industry between 1965-1985 are discussed by Szylvian (2004). The political players involved are State environmental agencies and indigenous Tribes. At stake is subsistence fishing rights the Tribes believe are guaranteed to them under the Ottawa Chippewa Treaty of 1836. The State is concerned with over-exploitation of fish by commercial fishing ventures, and, hoping for tourism revenue, values recreational use of the Great Lakes by sport fishermen. Included in the commercial fishing category are American Indians (Szylvian 2004). Non-Indian interests argue that indigenous peoples should practice subsistence fishing on a small-scale and only use traditional means to do so because those are the conditions under which the Ottawa Chippewa Treaty of 1836 was signed (Ferguson 1998/1999). However, “Arguments that Indians should use vine nets and unpowered canoes as they did when the treaty was signed are silly. Courts have rule that Indian fishermen always used the best available technology and have a right to do so today” (Pommersheim *in* Ferguson 1998/1999, p. 145-146).

Conflict between Michigan indigenous and non-indigenous fishing interests escalated in the late 1900s. These were extrapolated as, “Tensions mounted between the State and Tribes after a series of cases in the U.S. District Court in 1979, and anti-Indigenous rhetoric became evident at the individual level; bumper stickers displayed on cars read ‘Save a Trout: Spear an Indian’”(Szylvian 2004, p. 119). To mediate this growing conflict the U.S. District Court intervened in 1985, dictating that fishing in Lake Michigan be co-managed by Tribal, State, and Federal authorities (Szylvian 2004). Szylvian and Michael Chiarappa (2003) further discuss fishing rights conflict in Michigan in their book as part of the Great Lakes Center for Maritime Studies (GLCMS). The GLCMS team interviewed Tribal and non-Tribal individuals regarding fishery management and conservation. The researchers sought oral testimony, documents, and artifacts from those the fishery stakeholders they spoke with. Szylvian and Chiarappa (2003) wrote that conflict exists between this diverse group of stakeholders, in particular, conflict arose between Tribal and non-Tribal fishing interests when the Great Lakes indigenous peoples began to reclaim and reassert their fishing rights as protected by treaty. Szylvian and Chiarappa (2003) claim each fishery stakeholder’s personal testimony sanctions their claims to Great Lakes water resources. The authors recognize the importance of emerging communication, between these various Great Lakes Tribal and non-Tribal individuals, organizations, and governments, as a means to resolve fishing disputes (Szylvian and Chiarappa 2003).

### **Summary**

The relationship between Tribal, State, and Federal governments is of increasing importance to both indigenous and non-indigenous interests, particularly in the area of

environmental planning and management. The literature presented in this section is by no means an exhaustive presentation of American Indian legislation and research, but does help to illustrate the historical to contemporary transition of the Tribal-State-Federal relationship and resulting conflict. The jurisdiction of Tribal lands and natural resources was discussed and environmental co-management between Tribal and non-Tribal municipalities illustrated. Less literature exists concerning the Tribal-State-Federal relationship's influence on Tribal environmental planning and management in Michigan. Most of that which does exist focuses on the interpretation of water resource rights by Tribes and the State. Several studies discuss co-management schemes between Tribes and non-Tribal governments (Spaeder and Feit 2005; Spak 2005; Sherman et al. 2010), but none were conducted in Michigan. This thesis attempts to better understand this relationship in Michigan, in particular the influence of Tribal-State-Federal relations on Tribal environmental planning and management. The methods used to understand this relationship are presented next in Chapter Four.

## CHAPTER IV

### METHODOLOGY

*“One significant responsibility of all scholarship is to pursue the unknown, especially as it relates to the known. Specifically, mainstream American history presents “one” perspective, which is the known. However, the known history of this particular mainstream perspective fails to challenge itself to experience the unknown or little-known history of American Indians” - Donald Fixico (1996)*

#### **Introduction**

This thesis uses interview responses from employees of the environmental, planning, or natural resources department of five federally reaffirmed Tribes in Michigan to analyze the influence of the Tribal-State-Federal relationship on Tribal environmental planning and management in Michigan. To understand an individual’s perspective, qualitative research using oral interviews and on-site observation is demonstrated to be an effective method (Miheuah 1998; Liamputtong and Ezzy 2005; Marshall and Rossman 2011). The employees’ perspectives offer insight as to the inner workings of the Tribal-State-Federal relationship. These are not meant to present an exhaustive description of the entire Tribe’s perspective. It is important to note the perspectives offered in this study are those of individuals within a larger organization, each with unique opinions and experiences. It is not assumed that all employees within the Tribe share the same experience and opinion concerning the Tribal-State-relationship.

The United Tribes of Michigan website was used to identify the twelve federally reaffirmed Tribes in Michigan along with each individual Tribe’s website. From these individual websites, the environmental, planning, or natural resources department link was located. Next, the director of the department was identified and contacted.

Employees from an environmental, planning, or natural resource department were chosen

because of their assumed familiarity with Tribal, State, and Federal environmental policy and the influence of each on Tribal environmental planning and management (Again, the Tribal employees are not necessarily Tribal members). Using written, electronic, and verbal communication, at least one employee from the twelve federally reaffirmed Tribes in Michigan was contacted. The main government locations of Michigan's twelve federally reaffirmed Tribes are shown in Figure 1 on page 8. The Tribes included in this study are the Pokagon Band of the Potawatomi, the Nottawaseppi Huron Band of the Potawatomi, the Saginaw Chippewa Indian Tribe, the Grand Traverse Bay Band of Ottawa and Chippewa Indians, and the Little Traverse Bay Bands of Odawa Indians. Employees from these five Tribes agreed to collaborate with this study and interviews were arranged. Often these interviews were arranged by one individual of the Tribe, but multiple Tribal employees collaborated during the interview. Interestingly, the five Tribes who affirmed their collaboration are located in Michigan's Lower Peninsula. No Tribes in the Upper Peninsula responded to initial contacts. It is possible that the geographic distance between Western Michigan University and the Upper Peninsula discouraged those Tribes from responding, or perhaps the geography of the Tribes who collaborated is purely coincidence. After three attempted contacts, employees who had not responded were assumed to be uninterested in collaborating in this study.

### **Building an Ethnographic Narrative**

Interviews between researcher and Tribal employee(s) were informal in nature. They consisted of several prepared open-ended questions, but evolved into a fluid conversation with direction, scope, and scale that varied from employee to employee. However, several integral questions were asked to every employee in order to best

determine how the Tribal-State-Federal relationship influences Tribal land planning and management in Michigan. The Tribal employees' responses are anonymously coded by chronological order of interview (e.g. Employee A is the first interview and Employee H is the last interview). Their professional title is given to illustrate their role within the Tribe they represent, unless the employee asked for their title to be omitted. The interview process and content was approved by Western Michigan University's Human Subjects Institute Review Board (HSIRB) protocols. A copy of the HSIRB Approval Not Needed letter is found in the Appendix on page 113.

The key interview questions include:

1. What are some of the environmental planning and management issues your Tribe faces currently?
2. Has your Tribe created Tribal-specific environmental planning and management policies or programs?
3. How does State or Federal environmental policy affect your Tribal environmental planning and management?
4. To what extent does your Tribal environmental ideology compare to western environmental ideology employed by the State and Federal government?
5. What is your opinion concerning the Tribal-State-Federal relationship, as it relates to environmental planning and management? Is it a positive or negative relationship?

Each employee provided a unique perspective and, therefore each interview was unique in format, length, and location. For example, one interview took approximately two hours in the director's office, while another interview lasted five hours and took place entirely outdoors. This interview included a tour of the Tribal lands and current environmental planning and management projects in progress. Together, these interviews build an ethnographic narrative allowing further analysis of how Tribal employees in Michigan consider the Tribal-State-Federal relationship to influence Tribal environmental planning and management.

### *Data Analysis: Authentic Interpretation*

Ethnographic texts must convince the reader of the authenticity of the researcher, data gathering, and analysis. According to Golden-Biddle and Locke (1993), this type of interpretive study requires the researcher to demonstrate “authenticity” in the field. Authenticity requires proof that the researcher was present in the field and honestly interpreted and synthesized their results. The authors write, “To be genuine requires that the researchers not only learn about the members and their world, but also allow their personal and intellectual perspectives to be challenged by the field experience” (Golden-Biddle and Locke 1993, p. 599). This allows the researcher and reader to better their understanding of a peoples or subject, while minimizing preexisting bias and “taken-for-granted assumptions” (Golden-Biddle and Locke 1993, p. 599).

To analyze the interview data collected in the field, responses of Tribal employees were interpreted and synthesized to illustrate emerging themes and demonstrate the extent to which Tribal employees agree or disagree as to the influence of the Tribal-State-Federal relationship on Tribal environmental planning and management in Michigan. Chapter Five presents the interview results chronologically and Chapter Six presents these same results synthesized under common themes. For example the first theme is “Ideological Differences”. Interview responses that address ideological differences between Tribal and Western environmental perspective are synthesized, compared, and contrasted.

### *Ethical Considerations in the Field*

Studying and writing about indigenous peoples requires researchers to ethically gather, present, and synthesize data. *Natives and Academics: Researching and Writing*



*about American Indians* edited by Mihesuah (1998) is an anthology of essays by indigenous authors. In her introduction to the anthology, Mihesuah (1998) discussed the treatment of American Indians in scholarly research and the lack of indigenous perspective within literature about indigenous peoples. Much of the existing research concerning indigenous peoples in the United States has been written without seeking indigenous opinion (Mihesuah 1998). This thesis strives to counter this trend by relying primarily on indigenous opinion through the process of interviewing Tribal employees. Mihesuah's (1998) anthology was relied upon to guide the methodological decisions made throughout this study in order to ensure ethical procedures and results.

Fixico (1996) presented ethical considerations for scholars researching American Indians. He supports Mihesuah's concern about the representation of indigenous peoples by non-indigenous writers who make no attempt to gather the indigenous perspective, "...Ethnohistory written about American Indians is largely from a western perspective, while continuing to suppress the American Indian point of view" (Fixico 1996, p. 32). He also asserted the importance of personally interviewing indigenous peoples, to best understand the indigenous perspective.

During the interviews, a recording device was not employed. Instead, the Tribal employees' responses were recorded by hand to encourage a collaborative, rather than participatory, relationship between interviewer and interviewee. Via personal email correspondence, Margaret Pearce, Assistant Professor of Geography and Affiliate Faculty to Indigenous Studies at the University of Kansas, noted the importance of "collaborating" with Tribal employees, rather than asking them to "participate" in this research. According to Pearce, "It is challenging to collaborate with Native communities.

I use that word specifically here, in case you have not yet studied indigenous methodologies, to illustrate that people do not want to be studied, nor do they want to 'participate' (personal communication, June 30, 2012). Note-taking was thought to be a more approachable and collaborative form of data collection, rather than using an electronic recording device.

According to Champagne (1998), research methods employed by Western anthropologists, including electronic recording, have exacerbated many indigenous peoples' mistrust for Western research and researchers. He wrote, "The unhappiness expressed by many Indian communities against scholars, such as anthropologists in the 1960s and 1970s, in part was due to the indifferent way in which data were collected and published, and that resulted in little benefit to the host Indian community" (as cited in Mihesuah 1998, p. 183). Bengston (2004) recognized the difficulty in understanding Native Americans as an outsider to the indigenous community. "Differences in traditions, social mores, and language create obstacles to communication and understanding and histories of exploitation often create profound distrust of government institutions and their representatives" (Bengston 2004, p. 48). He emphasizes the importance of studying the land management perspective of Native Americans "in their own words", rather than performing an obtrusive research method on a minority population that likely mistrusts outsiders (Bengston 2004). This study takes care to thoughtfully present the opinions of Tribal employees in Michigan, in their own words, so as to benefit both Tribal and non-Tribal interests interested in Tribal environmental planning and management in Michigan.

Mihuesah (1998), Fixico (1996), Pearce (2012), Champagne (1998), and Bengston (2004) demonstrate several important considerations to acknowledge when studying Indigenous peoples. The aforementioned indigenous ethics - conducting personal interviews as primary expertise, developing a collaborative process between the researcher and Tribal employees interviewed, and consulting indigenous literature and sources as secondary expertise- ground the methodology of this thesis, particularly concerning the fieldwork component.

### **Research Timeline**

Tribal employees were contacted for interviews beginning in January 2012. It took roughly three to six months to solidify interview plans and field data collection took another six months between May to December 2012. Given that interviewing employees from five Tribes took nearly a year to initiate and complete, a study of larger scale would require substantially more time. The results from interviewing Tribal employees are presented next in Chapter Five by interview date and then synthesized for discussion in Chapter Six.

## CHAPTER V

### RESULTS

*I am glad you are learning about us. If more people listened to us we might not have had the time we did in our past.” - Employee F*

#### **Introduction**

This chapter presents the results of interviewing Tribal employees from five of the federally reaffirmed Tribes in Michigan concerning the Tribal-State-Federal relationship and influence on Tribal environmental planning and management. Before publication of this thesis, each employee’s results, in the format written in this chapter, was sent to them to ensure that their words are transcribed accurately, fairly, and sensitively. These results, as narrated by Tribal employee(s) interview responses, are presented by Tribe, in chronological order of interview date. All information in this chapter is from the perspective of the Tribal employees collaborating in this thesis and was gathered by personal communication with the Tribal employee(s) referenced. The Tribal employees included in this study approved the use of their opinions presented below, but the employees of one Tribe requested several revisions of their interview results. Consequently, the content of this chapter, the analysis, and the conclusions was altered to accommodate their concerns. In place of in-text citations, a field note citation appears at the beginning of each Tribe’s summary. In Chapter Six, the analysis, chronological order is not imposed. Instead, the results are synthesized to make sense of the Tribal-State-Federal relationship’s influence on Tribal environmental planning and management, according to Tribal perspective.

## Nottawaseppi Huron Band of the Potawatomi, May 2012

The Nottawaseppi Huron Band of the Potawatomi (NHBP) is based on the Pine Creek Reservation in Fulton, Michigan (see Figure 1 on page 8). Located on 140 acres, the Pine Creek Reservation houses NHBP's government campus, several housing developments, and various recreational and cultural amenities. Pine Creek, a river which runs to the east of the Reservation is an important natural resource to NHBP, as are the forests and wetlands surrounding the Reservation. Figure 3 shows part of the wetlands. The NHBP environmental department where the interviews took place is located in the Community Center on the Reservation. The employees who collaborated in this thesis are Employee A, Director of the Environmental Department, and Employee B, GIS Specialist. The results presented below, representing NHBP, were gathered from personal communication with NHBP Tribal employees in May 2012.



Figure 2. Pine Creek Wetlands (source: Annual 2010)

As a Federally reaffirmed Tribe, NHBP owns both fee and trust land. Employee B defines fee land as privately owned by NHBP or NHBP Tribal members, much like a

non-Tribal individual may purchase and own land. Trust land, however, is held by the State for the Tribe but considered separate from the State. While fee land is State-taxed, land held in trust is not eligible for State taxation. NHBP is able to apply to the Federal government to transfer fee land into trust, but the process is lengthy and politically complex. According to Employee B, the current political climate is very important in determining the success of NHBP's trust application. If approved, the process may take several years to complete.

NHBP was federally re-recognized in 1995. Employee A emphasized the "re-" in re-recognized to make clear that although the Tribe had been Federally recognized since the signing of the American Constitution, only recently was NHPH acknowledged as a sovereign nation by American Indian legislation. They go on to say politics cannot be avoided when discussing indigenous Tribes and Tribal issues. Not only is the Tribal-State-Federal relationship complex, but Employee A acknowledges that political turmoil exists within NHBP. The environmental department operates within both the external and internal political climate of the Tribe.

NHBP signed the Tribal Environmental Agreement (TEA) with the Environmental Protection Agency upon Federal re-recognition. The TEA States that NHBP will act in accordance with Federal environmental guidelines. For example, NHBP must maintain their water quality at or above Federal standards, but cannot allow water quality to drop below Federal standards. Because NHBP is beholden to Federal environmental guidelines in this way, Employee A refers to the Tribe's sovereignty as limited, or "controlled sovereignty". However, outside of various wetland programs, the State does not have much jurisdiction over Tribal land use. Employee A points out that

the State's influence becomes visible with the appointment of a Federal government resource manager for Michigan Tribes and the fact that NHBP's environmental department is entirely grant-funded through the EPA. However, NHBP has the ability to develop stricter environmental guidelines than Federal regulations.

Tribal-specific environmental standards, more stringent than Federal standards, enhance Tribal sovereignty. Employee A and Employee B illustrate how Tribal sovereignty is enhanced by creating Tribal-specific environmental standards using water quality as an example. Stricter, Tribal-specific environmental guidelines make it easier for NHBP to identify an upstream, non-Tribal pollution source which is polluting Tribal waters and therefore violating Tribal water quality regulations. Without Tribal-specific environmental standards in place, it is difficult for NHBP to assert their authority over non-Tribal sources. The environmental department's annual summary 2011 also mentions the relationship between Tribal sovereignty and environmental programs or policies. Concerning water resources, "We monitored water quality indicators at nearly 40 sites on Tribal Fee and Trust Properties and created technical documents that provide a long term framework for assessing the condition of Tribal waters, leading to enhanced Tribal environmental sovereignty" (Nottawaseppi 2011, 3). The annual summary also mentions the Tribe's participation as a trustee in the Natural Resource Damages Assessment Council, "Staying involved means we continue to advocate the Tribe's sovereignty to protect Mother Earth for future generations" (Nottawaseppi 2011, 10).

When asked to describe some of the main challenges NHBP faces environmentally, the employees identify land use on the Reservation as a present conflict. The trend of NHBP Tribal members leaving the Reservation for urban centers is

reversing. Competition for land now exists amongst the members returning to Pine Creek and the natural environment is adversely affected. Employee A and Employee B estimate NHBP has lost forty-percent of its forest area in the past seven years due to development needs for the returning Tribal members. Because of this, the environmental department encourages the Tribal Council to purchase additional land to ensure enough is available for both community development and habitat restoration. Habitat restoration is important on several dimensions - not only does the natural environment flourish, but restoring native habitat provides social and cultural benefits for NHBP members such as traditional hunting and gathering opportunities.

The environmental department has created several programs to encourage NHBP members to access and use traditional, culturally-significant resources. These include wild rice cultivation, maple sugar production, and native permaculture practices. NHBP has sown over twenty miles of Pine and Nottawa Creeks with wild river rice. “More than 40 plants were transplanted, and several pounds of seed sowed on the banks of Pine Creek on the Reservation” (Annual 2011, p. 6). NHBP’s Tribal Sugar Bush Program reintegrates the Tribes long tradition of harvesting maple syrup for events and sale. The Tribe’s permaculture programs include beekeeping and traditional gardening. One garden includes a Three Sisters planting - squash, corn, and beans - grown in traditional design (Annual 2011). These programs are meant to connect NHBP Tribal members with culturally-significant resources and resource practice. According to Employee B, cultural preservation is a priority for the environmental department



## **Little Traverse Bay Bands of Odawa Indians, July 2012**

The Little Traverse Bay Bands of Odawa Indians (LTBB) are located near Harbor Springs, Michigan, to the northeast of Little Traverse Bay (see Figure 1 on page 8). Located on 337 square miles, the reservation, aside from housing Tribal government, housing, and various other land uses, encompasses several non-Tribal municipalities, including Harbor Springs and Petoskey. The reservation borders Lake Michigan and includes parts of Beaver Island. Clearly, water resources are of great importance to the Tribe. The LTBB Natural Resources Department building is located on the main government campus. Interviews took place inside the office and a pole barn behind the Natural Resources Department, which houses LTBB's marina equipment. Figure 4 shows a boat used by LTBB's Conservation Officer. The employee who collaborated in this thesis is Employee C, Director of the Natural Resources Department. During the interview a traditional basket weaver and member of the Natural Resources Commission, gave a presentation about black ash basket preparation and weaving. The results presented below, representing LTBB, were gathered from personal communication with Employee C in July 2012.

LTBB was federally reaffirmed in 1994. Employee C discusses implications of this re-recognition for the Tribe's political organization. To be considered a federally re-recognized Tribe, LTBB is required to create a Tribal constitution modeled after Western legislation. Similar to the State and Federal government, LTBB's constitution separates power within three branches - executive (Tribal Chairman), legislative (Tribal Council), and judicial (Tribal Court). This organization is not a traditional means of Tribal government and has resulted in "less intimacy and more friction" between LTBB officials

and members, says Employee C. The Natural Resources Department's role within LTBB government is to protect natural resources and exercising of treaty rights through the development and enforcement of natural resource and environmental regulations. These are brought before the Natural Resources Commission, and if approved, forwarded to Council.



Figure 3. LTBB Conservation Enforcement Boat (source: author)

Under TEA, LTBB's trust lands must adhere to Federal environmental guidelines at minimum, with the option of creating more stringent Tribal-specific standards. There are several conditions the Tribe must meet before stricter standards may be applied for and regulated. The Tribe must have a defined area on which to regulate; this could be the entire span of trust property on the reservation or a particular parcel. Most importantly, LTBB must prove their "capability to manage" to the EPA. Employee C explains this requires long-term data collection to demonstrate both the necessity of and ability to enforce stricter Tribal-specific guidelines. Currently LTBB is developing baselines for water quality standards and uses, using ten years of data. Not only do Tribal-specific environmental guidelines reinforce LTBB sovereignty, the use of natural resources by

Tribal members requires unique standards. Employee C elaborates that natural resources, such as water, hold spiritual significance to Tribal members. State and Federal guidelines are insufficient to address the spiritual use of these resources, Tribal guidelines are appropriate.

The reason State and Federal environmental standards are inappropriate for a Tribal natural resource is because both parties use natural resources differently, according to Employee C. For example, the State desires water resources that are “fishable”, while LTBB members desire “harvestable” waters. Employee C elaborates on this difference in perspective saying that land provides the Tribe an opportunity to subsist by means of traditional harvesting, or sustainable harvesting in relatively small quantities, while the State values the natural environment for “big racks” or “big fish” which are recreational uses of resources. This difference in environmental ideology, along with LTBB’s political status, poses challenges for co-management between the Tribe and State. Employee C describes their relationship as “adversarial” and argues there is no co-management mentality between LTBB and the State, “More of each party asserting their rights. LTBB asserts rights to harvest, mainly, and tries to make sure [the] State doesn’t reduce their ability to do so”. The State has resisted any attempts at integrating co-management into their philosophy by ignoring LTBB’s authority as granted by the Federal government. Employee C believes “institutional inertia” is to blame for this oversight, citing the State’s “arrogant, paternalistic” attitude by which only the State possesses the proper knowledge for public environmental assistance. They go on to say that State officials may have no interest in getting Tribal input, but perhaps they have no

idea it is required. Federal officials understand their obligation to consult Tribes on any action affecting Indian Country, but the State does not.

The Federal government, as trustee to LTBB, works directly with the Tribe to make sure treaty rights are enforced. However, this trust relationship does not penetrate Tribal-State relations. Employee C says, “States and Tribes operate on the same level, basically, as domestic sovereigns”, both under Federal authority. They go on to say the State does not respect LTBB’s capabilities or rights. Employee C gives a recent example of Tribal-State-Federal involvement in an environmental matter that illustrates the complexity surrounding this relationship. When the Penn Dixie cement plant in Bay Harbor was abandoned, the Michigan Department of Environmental Quality (DEQ) oversaw redevelopment of the brownfield site. The safety system in place failed in 2004, causing caustic substances to flood into Lake Michigan. LTBB petitioned the EPA to get involved, because EPA is a Federal institution and therefore familiar with Tribal jurisdiction. According to Employee C, LTBB was able to participate in the disaster cleanup until the EPA handed management of the site back to the DEQ, “The trust relationship between LTBB and Feds shouldn’t be lost because Feds delegate to State environmental institutions”. Employee C argues the State has failed to uphold their responsibilities to LTBB.

The relationship between LTBB and the State seems be the most challenging item on the Natural Resources Department agenda. When asked to describe the main challenges LTBB faces environmentally, Employee C mentions various aspects of the Tribe’s environmental efforts that have been hampered by non-Tribal influence. They explain that American Indians are often placed in a historical context, disregarding the

fact that Tribes are living, vibrant communities today, and “LTBB runs into environmentalists’ shock at the idealized Indian versus reality”. Romanticizing LTBB’s beliefs undermines the Tribe’s ability to be taken seriously by the State. Employee C goes on to say, “LTBB wants to provide advice, lend resources, and avoid catastrophe like Penn Dixie”. They point to the Tribe’s long-term environmental goals in contrast with the State’s desire for instant gratification. For example, the State harvests ten percent of the forest to perpetuate the juvenile stage of tree growth, providing more yield, but reducing biodiversity because trees are not able to mature into climax stage. LTBB is more concerned with the long-term impacts of this process, over the short-term financial gain. In addition, the State’s timber clearing practice has reduced wild berry habitat which used to be managed by indigenous prescribed burning. Additionally, Employee C says that volunteer numbers are low, because members are “fatigued” from the fight for Federal reaffirmation. Finally, LTBB was one of the later Michigan Bands to be Federally re-recognized. Employee C says this means LTBB’s environmental initiatives are somewhat independent the rest of the Michigan Bands’, “We had to hit the ground running”. It is inaccurate to assume all Bands in Michigan approach environmental matters the same way, rather, each Band is unique which may lead to inter-tribal conflict.

The Natural Resources Department is addressing several of these challenges with its current and future environmental programs. LTBB is building a small scale fish hatchery and plans to become more active with Michigan DNR concerning forestry programs. A cultural greenhouse is planned, which will provide culturally-significant plants and medicinal herbs for member harvest and use. Many culturally-significant species grow in wetlands on the reservation, and the Tribe has designated several wetland

habitats for protection. Though a co-management mentality is not present, LTBB and the State are working on a joint venture to manage inland waterway wildlife. Employee C believes the future holds more co-management projects like this one, based on the State's dwindling revenue and their need to reach out for the financial assistance these projects require. Underlying LTBB's environmental programs is the seventh generation philosophy. They explain this ideology encourages the Tribe to plan for and manage the natural environment in a way which will benefit future generations, while drawing on past generations' knowledge. This long-term perspective guides LTBB's environmental policies and programs.

### **Pokagon Band of Potawatomi, July 2012**

The Pokagon Band of the Potawatomi (Pokagon) is located in Dowagiac, Michigan (see Figure 1 on page 8). The Pokagon own several thousand acres in Michigan and Indiana. Rivers, lakes, forests, and wetlands surround the Pokagon property. The Pokagon Department of Natural Resources (PDNR) where the interviews took place is located just off the main government campus, which is shown in Figure 5. The employees who collaborated in this thesis are Employee D, Director of the Department of Natural Resources, and Employee E, Cultural Associate of the Department of Language and Culture. The results presented below, representing the Pokagon, were gathered from personal communication with Employee D and Employee E in July 2012.

The Pokagon own both trust and fee land. They have no formally declared reservation and plan to keep it this way. Employee E remarks, "there is no need to define ourselves that way... we have done well without one up till this point". The Band continues to pursue land that is historically theirs, purchasing parcels as private land

sales. This process quickly becomes complicated once the seller realizes the potential buyer is Tribal. Employee D explains that Tribal buyers are thought to be sitting on large sums of casino revenue and if sellers think the Pokagon are interested in a land parcel, the price jumps enormously. For that reason, the Pokagon are secretive when it comes to purchasing private land, “We have to buy on the down low”.



Figure 4. Pokagon Government Campus (source: [nativenewsnetwork.com](http://nativenewsnetwork.com))

The Band was federally reaffirmed in 1994. Employee D says the Pokagon applied for Federal re-recognition because “Contemporary society cannot take care of Tribal society in the appropriate way”. Employee D elaborates that non-indigenous and indigenous peoples hold different ideologies and Federal reaffirmation allows the Tribe to best care for themselves in the appropriate way. TEA, the act signed between Tribe and EPA upon Federal re-recognition, allows the Pokagon the opportunity to self-govern. As to whether or not the Pokagon are creating more stringent environmental standards than those in place by the Federal government, Employee D explains the Band has the option to carry out “programmatic authority” on behalf of the EPA. He is referring to the strict, Tribal-specific environmental guidelines spoken of by both NHBP and LTBB

employees interviewed. But Employee D cautions that Tribal-specific guidelines, while enhancing Tribal sovereignty, are limited in scope and difficult to obtain. The Department must undertake long-term scientific studies to prove these guidelines are necessary. Employee D explains this is because often Tribes create stricter standards than the Federal government in order to target a non-Tribal pollution source that is affecting Tribal resources. This requires the Pokagon to “make a case” as to why they should be able to regulate non-Tribal communities. Employee D provides several incidents that might encourage a Tribe to develop these standards - agricultural pollution upstream, municipal development, and a wastewater treatment plant - so long as these activities can be proven to damage Tribal lands or resources.

Complexities within the Tribal-State relationship, according to Employee D, prevail among Michigan Tribes. In general, Federal respect for the Pokagon does not transfer to the State level. Treaties between Tribal and Federal governments are honored by Federal officials but mutual respect grounded in treaty is lost at the State level. Employee D explains “When the States formed, treaties were rarely enforced”. The State does not recognize obligation towards the Pokagon, in terms of involving the Band in environmental matters, and instead views Tribal programs and lands as conflicts. However, Employee D points to a promising development between former Michigan Governor Granholm and Tribes of Michigan. Granholm signed water and air accords between the Tribes and State, setting the stage for informal cooperation between Tribal and State environmental officials. But the accords did not live up to their potential, says Employee D, “The accords seemed to be one dimensional with the State setting the agenda”.



When asked to describe the most pressing environmental challenges the Pokagon face, Employee D and Employee E brought up the changing values of their Tribal members. The Band has adapted to contemporary Western society at the expense of traditional knowledge and values. Employee D and Employee E explain some members are “brainwashed from the European opinion that our ways are despicable”. In a strange twist, contemporary society looks to indigenous knowledge as key to solving global problems - such as using traditional medicines rather than pharmaceuticals. However, it is difficult to convince Elders their traditional ways have value when Pokagon members have been indoctrinated into a Western lifestyle. Furthermore, many Pokagon are descendants of peoples who were persecuted for their indigenous beliefs and some have experienced discrimination firsthand. Employee E explains, “It is hard to bring them back to what we were, after their parents were victimized for their traditional lifestyle”. Employee D and Employee E illustrate specific Pokagon knowledge that should be emphasized and not lost - consuming resources in a responsible fashion or “keeping only what you need”, placing value on the natural world and not money, and understanding humans will never manage the earth but the earth manages humans. It is a constant struggle to integrate traditional knowledge within contemporary society. The last challenge Employee D mentioned is that the Department does not have enough employees or volunteers.

The Pokagon Department of Natural Resources is attempting to reconnect members to traditional practice through several environmental programs. Employee E participates in the annual Pokagon Water Walk, modeled after the journey of several Grandmother Elders who walked around the Great Lakes perimeter to promote water

quality awareness in 2003. Women are in charge of protecting the water during the walk because women are life givers, says Employee E. The participants stop at every water source and offer prayer, ending at Rogers Lake. The walk is led by Tribal police and the City of Dowagiac's police force follows. According to Employee E, the entire Tribal and non-Tribal community is aware of the water walk. Another program which emphasizes traditional values is the community garden outside the Department. The garden grows culturally-significant crops such as tobacco, corn, beans, and squash. The corn seed was brought to Employee E by an Elder from Kansas. Employee E explains the corn seed is originally from Michigan, carried to Kansas in the pouches of female Pokagon on the Trail of Death. The Pokagon and Kansas Tribes have plans to continue exchanging traditional seed. The garden serves multiple purposes - teaching traditional environmental practice, encouraging a healthy lifestyle, and encouraging interaction between members and the natural environment. Employee D points to a new Pokagon housing development, designed using Low Impact Development guidelines. The houses provide human environment while conserving as much of the natural environment as possible. Employee D refers to these as a "human living development, but we wanted to make sure water could live there too".

### **Grand Traverse Band of Ottawa and Chippewa Indians, October 2012**

The Grand Traverse Band of Ottawa and Chippewa Indians (GTB) is located in Peshawbestown, Michigan, north of Traverse City on Suttons Bay (see Figure 1 on page 7). GTB owns 3,500 acres and is still expanding. The Natural Resources Department is located right next to Lake Michigan, close to the Band's fishing marina. The employee who collaborated in this interview is Employee F, Fish and Wildlife Technician. The

reservation campus is sprawling and much of the interview took place in Employee F's truck, touring GTB's facilities, natural landscapes, and an environmental project underway. The results presented below, representing GTB, were gathered from personal communication with Employee F in October 2012.

Employee F begins by distinguishing between "Tribes" and "bands". They explain that the State and Federal governments' notion of twelve Federally recognized Tribes in Michigan is incorrect; in fact there are three Tribes, known as the three fires - Ottawa, Chippewa, and Potawatomi. Together, indigenous peoples in Michigan are called *Anishinabe* which translates to "good people". These Tribes then split into various bands made up of small family groups. GTB was the first of twelve bands in Michigan to be federally re-recognized in 1980. Of GTB's Federal re-recognition, Employee F remarks, "I was not an Indian until I was 30 years of age in the eye of the Federal government". Even after the Federal government recognized GTB's identity and heritage, the Band is often thought of in the past tense. Employee F hears statements such as "It's awful what happened to your people a long time ago", and once, when they wore traditional dance regalia to a school program, several young children asked him why he was not dead. "They were obviously thinking that someone looking like I was dressed, was from so long ago that they should be dead". Employee F explains that indigenous peoples are often romanticized within a historical narrative, disregarding contemporary indigenous challenges, achievements, and culture.

Neighboring residents are not aware of the location of GTB's reservation, he continues, and some refer to Peshawbestown as "Shabby Town" because of the State of the reservation in the 1970s (residents did not have indoor plumbing at the time).

Employee F explains these non-Tribal perspectives are damaging because they do not account for GTB's current challenges and successes. They say that even though events are less transparent and "not so bloody," GTB is still persecuted by the State and Federal government. When they hear sympathetic comments to the plight his people faced in the past, Employee F thinks of the current struggles GTB faces concerning fishing, gathering, and inland hunting rights. They cite a specific phrase within Article 13 of the Treaty of 1836, signed between the Ottawa and Chippewa peoples in Michigan and the Federal government, which leaves Tribal environmental access open to interpretation. "The Indians stipulate for the right of hunting on the lands ceded, with the other usual privileges of occupancy, until the land is required for settlement" (Kappler 1904, p. 454). According to Employee F, this phrase provides the basis for Tribal-State disagreement over Tribal natural resource use. Because of the ambiguous reference to settlement, Employee F says that in the State's opinion Tribal rights to natural resources are not legitimate, "We didn't have the right anymore".

The State is still trying to dilute GTB's treaty rights to inland hunting, fishing, and gathering, as granted in a Consent Decree signed in 2009. The Consent Decree means to clarify the ambiguous meaning of the Treaty of 1836 and protect the inherent rights of Tribes to natural resources. The State and other organizations are afraid GTB will over-exploit resources and reduce population numbers beyond repair. To this Employee F comments, "The State is trying to put their way of thinking in regards to treating the environment on us, saying GTB will destroy the world because that's what the State did, not what GTB did". They argue that GTB peoples' teachings do not condone this kind of

exploitative resource and land use and asks the State to consider, “What did the world look like at early contact?”

Even without the State’s recognition of GTB’s rights to natural resources, the Band continued issuing fishing, gathering, and inland hunting licenses to members. GTB kept careful inventory of the number of resources Tribal members were consuming, which proved valuable when the State formalized their case against GTB’s resources rights. The Band’s records indicated Tribal hunters did far less damage to natural resource populations than the State claimed. GTB signed a Consent Decree with the State in 1985 to regulate commercial fishing. The Decree was then renegotiated in 2000, which means both parties reevaluate the document, but the Decree’s legitimacy is not threatened. When clarifying that the Decree provides GTB the right to fish, Employee F quickly corrected the use of the word “provides”, saying, “We have the right. The Consent Decree recognizes our inherent right and provides a way to regulate it”. The Decree, along with GTB’s Natural Resources Department, determines how much GTB will harvest, where GTB will fish, and how long the harvesting season will last.

When asked whether they believe GTB and the State co-manage the natural environment, Employee F says the State prefers to think of GTB’s environmental authority as temporary assistance, “The State wants control, could change to “co-work” on projects, but don’t call it co-management”! Too often, the State informs Tribes of environmental concerns after decisions are made, effectively “keeping us out of the loop”, says Employee F. Regardless, GTB continues to remind State officials of the need to consult the Band before environmental matters are decided by the State. Employee F goes on to say that even though GTB’s environmental and political rights are legally

established the State wishes to reduce Tribal application of those rights. The State can no longer question the legality of Tribal environmental authority, now it is a matter of how the State and GTB can work together to ensure the Band's rights are applied in practice.

The Tribal-State relationship obviously presents environmental challenges to GTB. Employee F mentions another challenge - Tribal members returning to the reservation have an entirely new, non-Native perception of the world, resulting in a non-cohesive community split between traditional and contemporary ways. Some of GTB's environmental programs aim to return members to traditional practice - including the Band's seed bank of black ash, a culturally-significant resource. The Band is also involved in an intensive dam removal and habitat restructuring project. GTB is one of many partners working to remove three dams from the Boardman River. Employee F gave a tour of the site during the interview and demonstrated the various stages of implementation. Figure 6 shows one portion of the project site. When finished, the area will contain the natural river and associated wetlands, harboring native flora and fauna. In a local newspaper, *The Record Eagle*, Employee F compares the dam removal to clearing a blocked artery, "We're healing one of Mother Earth's arteries. I think she's been hurting for a long time" (Anderson 2012, p. 1).

### **Saginaw Chippewa Indian Tribe, November 2012**

The Saginaw Chippewa Indian Tribe is located in Mount Pleasant, Michigan (see Figure 1 on page 8). The Tribe also holds land near Saginaw Bay on the east side of the State, referred to as the "Saganing" area. The Saginaw Chippewa Tribe was discussed in Chapter One; the Tribe recently won a lawsuit against the State and local municipalities, recognizing their rightful boundaries by treaty. Previously, the State recognized a small

portion of the large amount of land the Tribe owns today. Now the Saginaw Chippewa own land that includes non-Tribal municipalities, further complicating land planning and management decisions. The department where the interviews took place is located within the Tribe's government campus. Figure 7 shows the Tribe's Eagle Bay marina. The employees who collaborated in this thesis are identified as Employee G and Employee H. They asked that their department remain anonymous. The results presented below, representing the Saginaw Chippewa, were gathered from personal communication with Employee G and Employee H in November 2012.



Figure 5. Boardman River Dam Removal Project Site (source: author)

Regulatory land authority is still being worked out between Tribal and non-Tribal municipalities, says Employee G. They explain the Tribe, aside from water, does not have regulatory standards in place for natural resources currently. The rest are being developed as the Tribe regains responsibility for the new lands won in their recent lawsuit. Both Saginaw Chippewa employees explain that water monitoring and protection are a huge focus of Saginaw Chippewa's environmental efforts. Their office is supported

by EPA grants and funding from the Bureau of Indian Affairs and the Tribe matches Federal dollars provided. Under the Clean Water Act, they sample both Tribal and non-Tribal waters for quality testing. If a water resource affects Tribal waters, it is eligible for testing.



Figure 6. Eagle Bay Marina near Saginaw Bay

When asked if the Tribe encounters resistance in the testing of non-Tribal water resources, Employee G says the Saginaw Chippewa has a positive relationship with external organizations interested in water protection. They acknowledge negative situations occur within Tribal and non-Tribal relations, but describe these as extreme and assert negativity is not representative of the overall Tribal-State-Federal relationship. The Saginaw Chippewa maintains and continues to develop positive relations between Tribal and non-Tribal environmental employees and departments. For example, matching the Tribe's water sampling methods to the State's methods helped strengthen the relationship between Tribal and non-Tribal water interests. Employee G goes on to say that



communication between Tribal and non-Tribal interests is essential, and both sides should approach the Tribal and non-Tribal relations with an open mind.

In a similar vein, Employee G cites personal networking skills as extremely valuable for Tribal and non-Tribal environmental employees. Their established relationship with State environmental employees helped to garner a largely positive response to their work with Saginaw Chippewa environmental matters. Employee G mentions the importance of considering Tribal and non-Tribal relations as a relationship made up of individuals, not simply political bodies. Therefore the experiences, perspectives, and behaviors of Tribal and non-Tribal individuals affects Tribal-State-Federal relations. Both employees agree that education among Tribal and non-Tribal leaders helps to mitigate potential conflicts

When asked to describe the environmental challenges facing Saginaw Chippewa, Employee H mentions several water resources concerns. Among these are the effects of the Lake Isabella dam on aquatic life, agricultural runoff into rivers which provide drinking water for Saginaw Chippewa members living in Mount Pleasant (the Tribe has its own groundwater well), and severe reduction in aquatic species. Emergency management is also a current concern of Saginaw Chippewa. The Tribe successfully conducted their first emergency drill; the scenario was an oil tanker spill near a water resource. And of course, the planning department is soon to be challenged by the Tribe's recent acquisition of land which includes non-Tribal land, property, and resources, Employee H remarks, "There is never an end to what needs to be done".

The Saginaw Chippewa's environmental programs, aside from monitoring resource quality, also aim to involve the Tribal community in natural resource matters.

The most important components are education and outreach, says Employee H, and cites several projects which accomplish these. A bilingual natural resources activity book lists culturally-significant resources in both English and Ojibwe. The Tribe also maintains a wild rice restoration project in the Saganing area, near Saginaw Bay. With the help of the Tribal community, rice seeds were retrieved from Saginaw Bay and sowed in two ponds. An Elder spoke about the Tribe's historical migration and the significance of wild rice during that time. Employee H says the environmental team takes a narrative approach with natural resource matters. They explain Tribal members are meant to feel involved in departmental programs, which not only link people to place but also provide a means for the department to educate Tribal members on environmental services. Both employees emphasize the importance of education, not only between the department and Tribal members, but also the Tribe and State.

### **Summary**

The opinions presented in this chapter are the result of interviewing Tribal employees from five federally reaffirmed Tribes in Michigan, concerning the Tribal-State-Federal relationship and influence on Tribal environmental planning and management. The results, narrated by Tribal employee(s) interview response, are presented by Tribe, in chronological order of interview date. In Chapter Six, the analysis, chronological order is not imposed. Instead, the results are synthesized to make sense of the Tribal-State-Federal relationship's influence on Tribal environmental planning and management, according to Tribal perspective. Regardless of Tribal affiliation, interview responses from Tribal employees are broken down and pieced together to create a larger ethnographic narrative of general Tribal perspective. Current problems and successes in

the Tribal-State-Federal relationship as pertaining to Tribal environmental planning and management are identified. The extent to which Tribal employees agree or disagree about the major themes of this study is analyzed. Opportunities for better practice between Tribal, State, and Federal governments are suggested, so as to ensure the most successful Tribal environmental planning and management programs and policy.

## CHAPTER V

### DISCUSSION

#### **Introduction**

This chapter synthesizes the chronological results presented in Chapter Four to create a meaningful ethnographic narrative concerning the impact of the Tribal-State-Federal relationship on Tribal environmental planning and management from the perspective of Tribal employees. Ideological differences, Tribal sovereignty and Federal reaffirmation, Tribal environmental authority, Tribal-State-Federal relations, environmental co-management, and Tribal environmental challenges and successes are the major themes of this analysis. The extent to which Tribal employees agree or disagree about these themes is analyzed. Together, this analysis describes the influence of the Tribal-State-Federal relationship on Tribal environmental planning and management. Finally, opportunities for best practice between Tribal, State, and Federal governments are suggested so as to ensure the most successful Tribal environmental planning and management programs and policy.

#### **Ideological Differences**

The Michigan Tribal employees in this research made reference to conflict as a result of contrasting environmental ideologies between Tribal, State, and Federal governments. As demonstrated in the literature review, these ideological differences existed before a legal relationship formed between indigenous peoples and the United States government. All employees mentioned the importance of managing the natural environment for culturally-significant resources. Tribal environmental management is influenced by cultural tradition while State and Federal environmental management is

developed and implemented to extract maximum value from land and resources (Wildcat and Pierotti 2000). Employee B, GIS Specialist for the Nottawaseppi Huron Band of the Potawatomi (NHBP), says that cultural preservation is an environmental department priority, unique and separate from the typical priorities of State and Federal environmental departments. The Pokagon Band of Potawatomi (Pokagon) Department of Natural Resources includes a Tribal Historic Preservation Officer, suggesting the connection between Tribal history and Tribal environmental planning and management.

Employee C, Director of the Natural Resources Department for the Little Traverse Bay Bands of Odawa Indians (LTBB), elaborates on the different environmental perspectives of LTBB and the State concerning resource management and use. They believe that the State manages the natural environment for immediate maximum output, while LTBB manages for sustainable output over the next several generations. For example, the State keeps Michigan forests in a perpetual juvenile state, providing greater yields but reducing biodiversity because trees are not able to mature to the climax stage. LTBB is concerned with the long-term impacts of this process in that reduced biodiversity jeopardizes forest resilience against disease, pests, and changing climatic conditions.

The Pokagon employees, Employee D, Director of the Department of Natural Resources, and Employee E, Cultural Associate of the Department of Language and Culture, list several aspects of Tribal environmental ideology that contrast with Western environmental practice including: sustainable consumption of resources; placing value on nature and not money; and understanding humans will never manage the earth, the earth

manages humans. These components of Tribal environmental ideology that Employee D and Employee E describe support Wildcat and Pierotti's (2000) definition of TEK.

Perhaps the most obvious difference between Tribal, State, and Federal environmental ideology is the role of indigenous religion within environmental management. Several employees included in this study made reference to spiritual use of Tribal natural resources and explain that those uses guide Tribal management policies and programs. Employee C suggests that some conflict arises between Tribal and non-Tribal governments because State and Federal interests do not consider the environment sacred, as Michigan Tribes do. The literature review in Chapter Two suggests that the Tribal and Western environmental ideologies are unique to each other (LaDuke 1999; Wildcat and Pierotti 2000; Wildcat 2009). The opinions of the Tribal employees included in this study support several key distinctions between Tribal and Western environmental perspectives. Table 2 summarizes these differences.

**Table 2. Unique Tribal and Western Environmental Ideologies**

<b>Tribal</b>	<b>Western</b>
Environmental management influenced by cultural tradition	Cultural preservation not typically an environmental concern
Manages resources for sustainable output for future generations	Manages resources for immediate maximum output
The earth manages humans	Humans manage the earth
Spirituality inseparable from natural environment	Separation of church and State

### **Sovereignty and Federal Reaffirmation**

The majority of the Michigan Tribal employees who collaborated in this study made reference to ongoing conflict within Tribal, State, and Federal government

relations. This conflict may stem from the ambiguity surrounding Tribal sovereignty as a result of Federal reaffirmation. Employee A, Director of the Environmental Department, argues NHBP has to rely on non-Tribal governments even though the Tribe is recognized as sovereign. Employee C notes that LTBB's western-modeled constitution, required as part of Federal re-recognition, has resulted in increased tension between Tribal officials and members due to its departure from traditional Tribal governance. There also appears to be a cultural barrier between Tribal and non-Tribal society. Employee D explains that Federal ideology, as part of non-Tribal society, is inappropriate for the Pokagon.

Furthermore Employee F, Fish and Wildlife Technician for the Grand Traverse Band of Ottawa and Chippewa Indians (GTB), notes that the State and Federal government are incorrect in their basic assumption of Tribal organization in Michigan. There are not twelve federally reaffirmed Tribes but rather three Tribes out of which twelve *bands* formed. This incorrect assumption suggests Tribal concerns are invisible or misconstrued at the State and Federal level. Different interpretations of Tribal sovereignty and Federal reaffirmation by Michigan Tribes, the State, and the Federal government certainly affect Tribal-State-Federal relations.

Questions of sovereignty and Federal reaffirmation encouraged mixed responses from the Tribal employees included in this study. Employee A, Employee C and Employee F spoke about Tribal conflict as a result of Federal reaffirmation, such as the misidentification of Tribal organization in Michigan and less intimate Tribal government organization. These employees placed responsibility for such conflict largely on the State and Federal government. Their opinions are supported by Deloria and Lytle (1984) who

also found fault with the assimilation of Tribal government organization upon Federal re-recognition, as a guise to gain more control over indigenous peoples.

### **Tribal Environmental Act (TEA)**

The literature review in Chapter Two demonstrates the lengthy history shared between Tribal, States, and the Federal government. The most recent transition in this relationship in Michigan is the Federal reaffirmation of twelve Michigan Tribes, five of which are represented in this study. Not only does Federal reaffirmation recognize Tribal sovereignty, it also marks the beginnings of supposed environmental co-management between Michigan Tribes, the State, and the Federal government. Upon Federal re-recognition all five of the collaborating Tribes signed the TEA with the EPA. TEA mandates that Tribes must follow Federal environmental guidelines at minimum and identifies the specific guidelines in place. Most of the Michigan Tribal employees collaborating in this thesis mentioned the desire of their Tribe to create more stringent environmental standards than those in place at the Federal level. According to these employees, Tribal-specific environmental standards appear to serve two purposes. Employee A and Employee B explain that creating Tribal-specific standards enhance NHBP's sovereignty by demonstrating their authority and capability to manage off-reservation resources that are affecting NHBP resources. Employee C points to another reason Michigan Tribes desire to create more stringent environmental standards: LTBB members perceive and use resources differently than the State and Federal government. They assert that certain natural resources, such as water, are of spiritual significance to the LTBB. The Federal government does not attach spiritual value to water and therefore Federal guidelines are insufficient to address LTBB's use and perception of this resource.



However, Employee C also mentions the difficulties involved in creating Tribal-specific environmental guidelines. The largest obstacle appears to be LTBB's need to demonstrate their management capabilities to the EPA. They imply that Tribes are assumed to be incapable by non-Tribal environmental authorities until proven otherwise. Employee D supports Employee C's response. They note that creating Tribal-specific guidelines, while strengthening Tribal sovereignty, is not easy for the Pokagon who are required to prove to the Federal government why they hold the ability to regulate non-Tribal resources. They describe Tribal-specific environmental guidelines as limited in scope and difficult to obtain. Employee G and Employee H, Water Resources Technician for the Saginaw Chippewa, note that until recently, Saginaw Chippewa did not have enough land in trust to need Tribal resource regulations. Given the Tribe's recent lawsuit and greatly expanded territorial jurisdiction, they are in the process of developing environmental regulations. Currently, the Saginaw Chippewa do regulate water quality including Tribal and non-Tribal resources. Employee G describes the Tribe's relationship with non-Tribal organizations involved in water protection as positive. While Employee G and Employee H offer largely positive comments about the relationship between Saginaw Chippewa and non-Tribal environmental authorities, most Tribal employees collaborating in this study voice negative concerns regarding Tribal-State-Federal relations.

The most important concern of Tribal employees included in this study, regarding TEA and Tribal-specific environmental standards appears to be the necessity of Tribes to demonstrate their capacity to plan for and manage the natural environment. As Tribes are independent from the State and Federal government, purportedly operating within a

government-to-government framework, it does not seem appropriate that Tribal environmental departments must defer to the Federal government. This tension appears to extend beyond the scope of this study in Michigan. Deloria and Lytle (1984) spoke to this dilemma, writing that non-Tribal governments fail to recognize Tribal concerns as existing within a process of national interaction between Tribal, State, and Federal governments. It seems that if a true government-to-government relationship were in place, the State and Federal government would not consistently question Michigan Tribes' ability to plan for and manage Tribal natural environments.

### **Tribal-State-Federal Relations**

The relationship between Tribes, States, and the Federal government was officially recognized by the Federal government in 1787 with the signing of the United States Constitution. This document formed the basis of a trustee relationship between Tribes and the Federal government, as discussed in the Literature Review in Chapter Two. Employee C interprets this to mean the Federal government, as trustee to LTBB, works directly with the Tribe to ensure their treaty rights are upheld. However, this trustee relationship may not transfer to the Tribal-State relationship. Several of the Tribal employees in this research noted that the relationship between Michigan Tribal and non-Tribal governments deteriorates at the State level. Employee C describes Tribal-State relations as antagonistic and Employee F describes the State's tendency to keep GTB uninformed concerning environmental matters. Employee C refers to the State's inability or resistance to recognizing Tribes' role within environmental planning and management practice and argues the State has ignored LTBB's environmental authority granted by the Federal government. The State may do so intentionally, they suggest, or perhaps the State

is unaware of its responsibility to consult Tribes on any action affecting Indian Country. Whichever the case, they believe that the Tribal-State-Federal relationship deteriorates at the State level. According to Employee C, the State has failed to demonstrate their responsibilities to Michigan Tribes.

Employee D supports Employee C's Statements, explaining that Federal respect for the Pokagon does not transfer to the State level. In their opinion, the State views Michigan Tribes as conflicts. Promising positive developments between Michigan Tribes and the State, such as environmental accords brought before Governor Granholm have not been actualized in practice. Employee D argues the accords' potential was not realized because the State continued to refuse Tribal input. The relationship between Michigan Tribes and the State may not be characterized as positive; however, Employee G argues that their relationships, as a representative of Saginaw Chippewa, with State officials are largely positive.

Employee G and Employee H both stress the influence of individual behavior between Tribal and State representatives on the larger Tribal-State relationship. Employee G believes an effective Tribal-State relationship relies on cultivated relationships between Tribal and State employees. They cite their own personal relationships with State environmental officials as extremely helpful to their position with Saginaw Chippewa. Agreeing with Employee G, Employee H cites education as the only way to achieve successful relations between Saginaw Chippewa and the State. They imply that an individual's behavior may greatly influence the institutional relationship between Michigan Tribes and the State. Both Employee G and Employee H acknowledge that building an effective relationship between Tribal and State governments takes time.

When asked to describe the Tribal-State-Federal relationship and its influence on Tribal environmental planning and management, the Tribal employees included in this study offer contradictory opinions. Employee C, Employee D, and Employee F argue Federal and State responsibility to Tribes deteriorates at the State level and place responsibility for conflict on the State as an institution. Employee G takes a different approach and suggests personal relationships between Tribal and State environmental officials are the basis for the institutional relationship between Tribes and the State. Employee G and Employee H's analysis of Tribal-State-Federal relations particular to their experience is individualistic and does not recognize the "institutional inertia" Employee C uses to describe the State's reluctance to acknowledge Tribal environmental authority. Of the two perspectives, Employee C is supported by the broader literature perspective. Hibbard et al. (2008) writes that Tribes "... threaten the State itself" (p. 137), implying an institutional conflict exists between Tribes and State as political entities not individual personalities.

### **Environmental Co-Management**

Michigan Tribes must first be able to access and use the natural environment in harmony with State and Federal authorities if they are to co-manage with the State and Federal government. Several of the Tribal employees collaborating in this study mention the difficulties their Tribes face in terms of accessing and using natural lands and resources. Employee F says GTB's rights to natural resources are continually challenged by the State. He cites a specific phrase within Article 13 of the Treaty with the Ottawa in 1836 which leaves Tribal environmental access open to interpretation. The Treaty, signed between representatives of Ottawa and Chippewa peoples in Michigan and the Federal

government, authorizes cessation of Tribal lands to the Federal government in exchange for annual payments. Article 13 provides Tribes the right to continue harvesting ceded territory, "...until the land is required for settlement" (Treaty with the Ottawa 1836, 454). This ambiguous phrase has resulted in different interpretations of the Treaty between the State and Michigan Tribes. Employee F says the State regards Tribal rights in Michigan as illegitimate. Employee C argues that a co-management mentality between Michigan Tribes and the State does not exist; rather, both the State and LTBB compete for rights to the land and natural resources.

In 1985 a Consent Decree was passed between Michigan Tribes and the State in order to clarify the ambiguous phrasing of the Treaty and protect Tribal rights to natural resources on ceded territory. The use of the word "protect" is important here. Employee F takes issue with the common perception that the Decree *provides* Tribal natural resource rights. They explain that these rights, like Tribal sovereignty, are innate and cannot be dictated by Western legislation. Rather, the Decree determines the quantity harvested, locations available for harvest, and the length of harvest season(s). However, Employee F notes that this has not changed the State's attitude towards Tribal environmental rights. They say that the State, along with other non-Tribal organizations, are worried GTB will over-exploit natural resources if allowed to harvest. Employee F argues the State is projecting its own exploitative tendencies concerning the management of natural resources onto Tribal management policies. The Tribe's records of natural resource consumption by Tribal members shows that Tribal harvesting does far less damage to the natural environment than the State claims.

Characterizing Michigan Tribal environmental practice as over-exploitative is one way the State attempts to reduce Tribal application of natural resource rights. The State can no longer question the legality of Tribal environmental authority, but continues to challenge the methods used by Tribes to harvest resources (Szylvian 2004). Employee F believes the State prefers to think of GTB's environmental authority as temporary and assistive to the State rather than independent from State authority. Several employees included in this study mentioned their Tribe must prove itself to State and Federal agencies in terms of the Tribe's ability and right to plan for and manage the environment. Co-management implies Tribal, State, and Federal interests are equally responsible in planning for and managing shared natural resources (Kofinas 2005). However, the Tribal employees included in this study indicate the State prefers Tribes to have less environmental responsibility than non-Tribal municipalities.

Both Employee C and Employee F express frustration over the State's tendency to leave Tribes out of environmental decisions that impact Michigan Tribes. Employee C says LTBB desires to be included in the State's decision-making process. They envision that future co-management between Tribes and the State will be more inclusive of Tribal opinion, given the State's dwindling revenue and their need for monetary assistance the Tribes can provide. In the meantime, co-management between Tribal and non-Tribal governments appears to be practiced more effectively within the Tribal-Federal relationship than the Tribal-State relationship. All of the employees included in this interview focused on Tribal-State relations when discussing current problems within the Tribal-State-Federal relationship. Mention of the Federal government generally precluded

employees' concern that Tribal treaty rights do not transfer beyond the Federal level to the State.

The opinions of Tribal employees included in this study point to challenges within the Tribal and State co-management of Michigan's natural environment. Figure 8 summarizes these environmental co-management concerns.

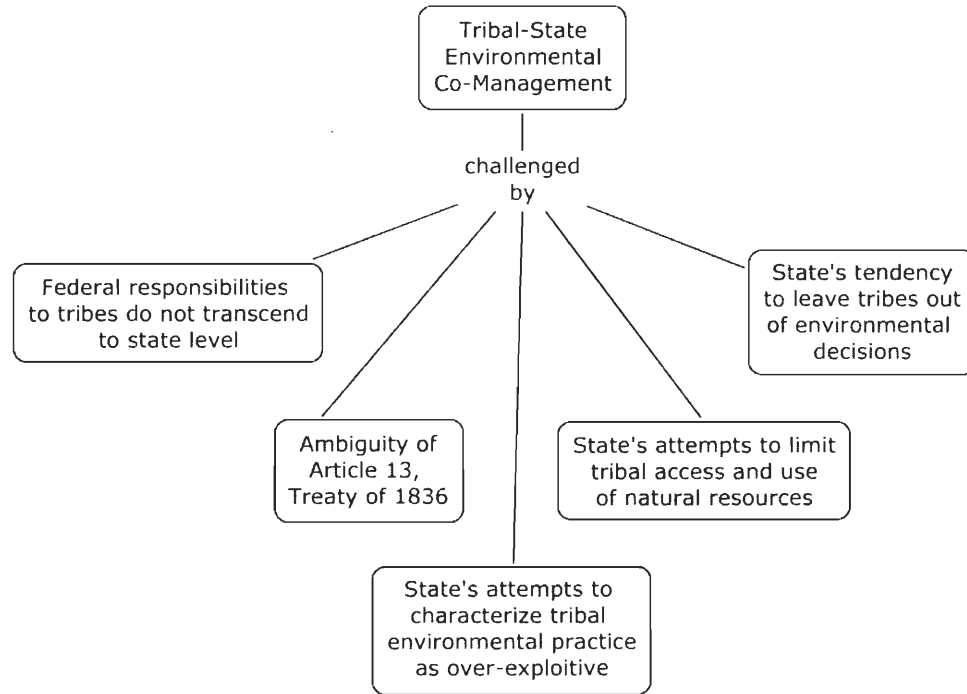


Figure 7. Environmental Co-Management Problems (source: author)

### Environmental Challenges

One of the main challenges Tribes face environmentally is the non-Tribal interpretation of indigenous culture. Several employees included in this study mentioned stereotypes of Michigan Tribes and the negative consequences of these stereotypes on Tribal environmental planning and management. Tribal stereotypes affect Tribal environmental planning and management regarding the acquisition of new territory. Most Tribes included in this study are actively growing in member population and land

holdings. The Pokagon continues to purchase historically-relevant territories as private land sales. These transactions are complicated by the perception that Michigan Tribes are sitting on large sums of casino revenue. If the seller believes the Pokagon are interested in a land parcel, the price jumps enormously. Employee D explains the Tribe purchases land furtively to avoid this kind of discrimination

Employee D and Employee E also bring up the changing value systems of Pokagon members. This is a result of Western interpretation of their traditional beliefs and behavior. It is difficult to convince Elders within the Tribe that their traditional ways have value after Pokagon members have been indoctrinated into Western culture. Many Elders have experienced discrimination firsthand or are descendants of peoples who were persecuted for their adherence to indigenous culture. Employee E stresses how difficult it is to encourage these Tribal members to return to their traditional environmental practice.

Employee C points out that contemporary Tribes are still placed in historical context by Western peoples, disregarding the fact that Tribes are living, vibrant, and growing communities today. They explain that non-Tribal peoples romanticize Tribal environmental perspective in a historical context and are confused by Tribal use of modern technologies such as motorized fishing boats. Romanticizing LTBB's environmental practice undermines the Tribe's ability to be taken seriously by the State. Employee F supports Employee C's opinion that Tribes are romanticized into a historical narrative by non-Tribal peoples. They often receive comments about the events their Tribe suffered in the past and when they wore traditional dance regalia to a school program, a child asked him why they were not dead. Perceiving Tribes as existing only in the past tense draws attention from existing indigenous challenges, achievements, and



capabilities. To illustrate this, Employee F points out that neighboring residents of the GTB are not aware of their reservation's location. Of those who are, some refer to Peshawbestown as "Shabby Town" due to the absence of indoor plumbing until the 1970s. These stereotypes are obviously negative, but especially damaging in that they characterized GTB by what the Tribe used to be and do not consider what the Tribe is today. Employee F goes on to say that just because current events are not as dramatic as the Trail of Death, for example, GTB still faces significant challenges. Tribal challenges and capabilities are often lost in the historical framework within which Western peoples place indigenous culture. This uninformed Western perception of Tribal culture may explain the limited involvement of some Michigan Tribes with the State and Federal government concerning environmental planning and management. It appears Tribal environmental capabilities are not taken seriously by non-Tribal governments, in part because of disadvantageous stereotyping of Tribal culture.

Other challenges of note for Michigan Tribal environmental planning and management include a limited number of environmental employees and volunteers, and conflicted land use decision-making. Employee C believes LTBB members are tired from the fight for Federal reaffirmation the Tribe went through in 1994. Interestingly, both Employee C and Employee D note that their environmental departments are not supported by enough employees or volunteers. Insufficient numbers of Tribal staff could suggest to the State that Tribal environmental departments are incapable of planning for and managing Michigan's natural environment. This perspective of the State is one of the main criticisms both Employee C and Employee D have regarding Tribal-State-relations.

Employee A and Employee B identify decisions regarding land use on NHBP's reservation as a current environmental challenge for the Tribe. The trend of Tribal members leaving the reservation for economic opportunities in urban areas is reversing. The number of members returning to the reservation requires the government to expand community developments such as housing, education, and health services. Employee A and Employee B estimate forty-percent of NHBP's natural landscape has been developed to accommodate the Tribe's growing population. The environmental department is encouraging Tribal Council to purchase more land in order to allow for both development and habitat preservation.

The Tribal employees included in this study mention a variety of challenges facing their environmental initiatives. Figure 9 summarizes these challenges.

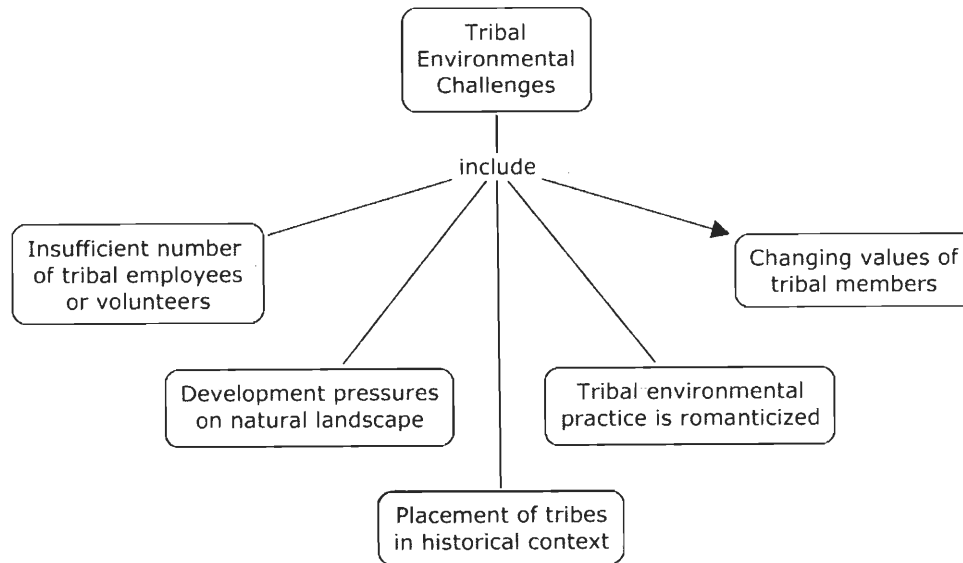


Figure 8. Tribal Environmental Challenges (source: author)

### Environmental Successes

Regardless of negative stereotypes concerning Tribal environmental perspective and capability, complex relations between Tribal, the State, and the Federal government,

and ambiguous interpretation of Tribal sovereignty, Michigan Tribes are making positive environmental strides for their current and future generations. Every employee included in this study noted several items when asked what Tribal environmental programs their department is currently pursuing. NHBP has several culturally-significant resource preservation programs in place. These include wild rice cultivation, maple sugar production, black ash conservation, and native permaculture practices. These programs are meant to connect Tribal members with traditional resource use and management. The Saginaw Chippewa have also developed environmental programs to educate and involve the Tribal community in culturally-significant natural resource practice. These include a natural resources activity book which lists resources in the native language. The Tribe also held a wild rice planting event, during which an Elder spoke about the Tribe's historical migration and the significance of wild rice during that time. LTBB is building a small scale fish hatchery and cultural greenhouse, both of which will connect members to culturally-significant natural resources. Employee C also points to several co-management programs between LTBB and the State. They plan to become more active with the Michigan Department of Natural Resources (DNR) concerning forestry management and are working on a joint venture with the State to research and manage inland waterway wildlife. Similarly, the Pokagon work with local non-Tribal municipalities to organize an annual water walk, modeled after the journey of several Grandmother Elders who walked around the Great Lakes perimeter to promote water quality awareness in 2003. Along the walk, Pokagon women stop at every water source and offer prayer for its protection. They are accompanied by Tribal police and City of