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Reservoirs and Reservations

Karen M. Griffin

In the late 1930s and 1940s, the Army Corps of Engineers was heavily involved in the development plans for a number of large dams located throughout the country. Many of these dams, and the reservoirs they created, have either been situated on Native American reservations or have had direct impact on reservations. This paper proposes that while the original intent of these dams was to benefit a number of people, there may have been those who saw dams as a convenient tool in the fight to terminate and assimilate the Native American population. Evidence regarding two of these projects, the Kinzua Dam on the Allegheny River and the Pick Sloan Project along the Missouri River evidence has been detected to support this hypothesis. In both cases the Native Americans were neither informed of the dramatic changes which would effect their lives, nor were they included in any of the discussions concerning these dams. All the tribes faced enormous opposition from the government, which resulted in costly and long-term legal battles and for some, the possible termination of their tribe.

Many of the major dams found in the United States today were planned in the late 193's, 40s, and 50s by the Army Corps of Engineers. The 1940s and '50s is also known as the period of termination for many Native tribes. This paper proposes that dams, and specifically the reservoirs they create, became a useful tool in the fight to terminate Native American tribes either through direct termination or by more subtle approaches in the destruction of their reservations and communities.

While many would argue that dams were designed only to provide hydropower or control flooding problems, there can be little dispute that a large number have had direct and indirect effects on tribal lands and tribal people. There are some 17,537 reservoirs and impoundments alone on lands under BIA jurisdiction (Reddy 1993). These cover 507,139 surface acres of tribal lands (Reddy 1993:Table 1). Much of the land covered has been the prime land on the reservations. Homes, the best of the agricultural land, timberlands, sacred religious sites and numerous cemeteries have all been inundated by the waters of the reservoirs. Often the tribes were not even aware of the plans for the development of the dams until it was too late to stop the construction and the consequent devastation to their reservations.

IMPACTS OF RESERVOIRS

Dams and reservoirs have an enormous impact on the lands on which they are built. They substantially alter the courses of rivers, submerge large tracts of land, hamper or altogether destroy wildlife, trigger earthquakes, create breeding grounds for infectious diseases, and often inundate lands occupied by people.

However, the effects on the land are not the only, nor the most damaging, effects. The social-cultural effects as a result of relocation and resettlement can be far more damaging and long-term.

The most easily and widely used measures of impacts are usually in economic terms. Economists can easily measure the possible economic loss of agricultural lands or businesses within a given area. Yet, little consideration has been given to socio-cultural effects of relocation and resettlement. The forced relocation and resettlement of people has been shown to produce instability in the political structures of communities, the split up of kinship groups and in some cases of nuclear families, increased infant mortality rates, increased divorce rates, increased health problems, increased unemployment rates and a number of other problems. And invariably, these people who have been forced to relocate rarely receive any direct benefits such as the very electricity these dams produce (Colson 1971; Dr. Robert Hitchcock, personal communication, 1996).

THE SENECAS OF THE ALLEGANY RESERVATION

In 1794, George Washington signed a treaty with fifty-nine sachems and war chiefs of the Iroquois Nations providing them with reservations in the New York and the Pennsylvania area. This treaty, signed by George Washington, and known as the Pickering Treaty stated: "Now the United States acknowledge all the land within the aforementioned boundaries, to be the property of the Seneca nation; and the United States will never claim the same, nor disturb the Seneca nation...but it shall remain

theirs, until they choose to sell the same to the people of the United States, who have the right to purchase."

Even before this treaty, in 1791, Cornplanter, the great Seneca war chief, had granted to him and his heirs "in perpetuity" three tracts of land by the state of Pennsylvania for his service in protecting American settlers and keeping the peace between the Senecas and the Americans (Josephy 1968). Two of these tracts Cornplanter later sold, but he retained a 908 acre tract for himself and his descendants. When he died in 1836, Cornplanter was buried on this tract of land along the Allegheny River, and in 1866 the state of Pennsylvania erected a stone monument over his grave.

But this tract of land had even further significance for the Seneca for it was on this land that Handsome Lake, Cornplanter's half-brother, had his first revelation. Handsome Lake was considered a prophet by the Iroquois people and his new religion was quickly adopted by many of the Iroquois. It is still practiced and evident in Iroquois life today. The Iroquois consider this land to be sacred ground with deep religious significance.

The Senecas have lived on their reservation land since the 1794 treaty with only occasional interferences by the US government for things such as mandatory public education for children. But in the 1950s, things were to change drastically for the Senecas along the Allegheny River. In 1957, the US Army Corps of Engineers began to act on a 1938 plan to construct a dam to control the flood waters of the Allegheny River and to provide the city of Pittsburgh with additional electrical power. The project was known as the Kinzua Dam (Josephy 1968).

The Kinzua Dam, 179 feet high and almost 1,900 feet long, would eventually cost \$120 million to construct and created a reservoir 35 miles long (Josephy 1968; Abrams 1976; New Republic 1964). This reservoir inundated over 10,000 acres of the 30,469 Allegheny Reservation, including Cornplanter's tract where his grave and monument resided, and forced the relocation of 700 Seneca people (Abrams 1976; Christian Century 1964). And while approximately 20,469 acres may seem to be a substantial portion of land, this was not the case. The leased town of Salamanca, New York, roads and railroads and other small towns occupied by whites on the reservation occupied nearly 12,000 acres. The remaining land was rocky, steep, forested hillside which was unsuitable for building homes.

The land flooded by the reservoir was the most fertile land of the reservation and also the best hunting grounds for the Senecas, a crucial factor for a people who still partially lived on subsistence hunting (The Economist 1962). It also provided the Senecas wood for fuel and

clear, cold water wells and springs. With relocation due to the dam, the Senecas would be forced to pay for fuel and municipally supplied, chlorinated drinking water (Senior Scholastic 1964).

But this land was more than just a place to live and hunt. It had greater meaning and significance for the Seneca people, including its sacred status in relation to the prophet Handsome Lake. Anthropologists Stanley Diamond, William Sturtevant and William Fenton stated in a memorandum submitted to the Subcommittees on Indian Affairs in 1964 on the Seneca reservation:

No matter how crude living and other facilities may be in fact, the reservation itself is a home and a shelter, and the most tangible symbol of Indianess, both for those now living there and for many tribe members temporarily living elsewhere. In this, Indians differ from other citizens, including other minority groups, for whom the specific land they occupy is of far less cultural and psychological significance. The reservation is, however, not merely a repository of a dwindling heritage. It is, also, a society in which new possibilities of Indian cultural expression struggle to establish themselves. (Diamond et al. 1964:632).

The area to be inundated by the reservoir was not only occupied by the homes of the Seneca people, it also was where their ancestors were buried. Some 3,000 graves would have to be relocated, among them the grave of Cornplanter (Josephy 1968).

All of this would have been difficult enough for the Seneca people to endure, but to make matters worse the manner in which the Seneca people were treated throughout the planning and construction of the dam added insult to injury. When the Army Corps of Engineers requested authorization for the building of Kinzua Dam in 1938 and again in 1941, they had not bothered to either inform the Seneca people nor consult with them. In fact, the Army Corps of Engineers did not even bother to mention that the dam would break one of the oldest US treaties in existence when they gave their presentation to Congress (Josephy 1968).

The Senecas were further deceived in 1955 when engineers arrived on the reservation supposedly to conduct surveys, telling the Senecas that they were not even sure that this was where they wanted to locate the dam (Josephy 1968). In 1956, Congress appropriated the funds necessary to construct the Kinzua Dam. The Senecas learned afterwards that hearings were conducted in which the engineers testified; Senecas were neither invited nor informed (Josephy 1968).

In reaction to the appropriation of funds, the Senecas sought an injunction to halt the construction of the dam. They also hired two outside engineers to review the Kinzua Dam and to see if there was an alternative to the

location. Dr. Arthur E. Morgan, the former chairman of the Tennessee Valley Authority and former president of Antioch College and Barton M. Jones, the builder of the T.V.A.'s Norris Dam were hired by the Seneca tribe. Dr. Morgan made it clear to the Senecas that "should he find that Kinzua was essential to the protection of a great city like Pittsburgh, he would advise them not to object—and they agreed" (Taylor 1961).

Dr. Morgan and Mr. Jones found that there was in fact an alternative solution to the construction of the Kinzua Dam. In a letter to President Kennedy dated March 16, 1961, Dr. Morgan wrote:

In fixing on the Kinzua Dam site more than thirty years ago, the Corps of Engineers made a colossal blunder or oversight in failing to discover the Conewango-Cattaraugus site, with diversion of excess flood waters into Lake Erie. As compared with Kinzua, choice of the Conewango-Cattaraugus location would save the Seneca Indian reservation, would protect Pittsburgh from twice as great a flood as would Kinzua, and would entirely remove Upper Allegheny flood water from the Ohio, thus saving the need for spending probably more than \$100,000,000 for additional reservoirs; and especially, Conewango Reservoir with its vast capacity would make possible the storage of three times as much water as would Kinzua for increasing low water flow in the Ohio River—and all this at less cost than Kinzua (Taylor 1961:121).

Dr. Morgan's alternative plan, even when shown to be more beneficial, was not accepted by President Kennedy or Congress. The Corps of Engineers claimed it would be more expensive and that it could not provide the recreational opportunities that the Kinzua Dam could. The Corps had strong political support from members of Congress and strong allies of President Kennedy; as a result, the Senecas lost (Josephy 1968).

But the Seneca's plight did not end there. The encroaching waters of the reservoir began to rise and were close to flooding the homes of the people, although they had not yet received any funding from the federal government which would allow them to relocate. However, the railroad, which also faced some relocation of tracks, received \$20 million without delay (Christian Century 1964).

According to House Resolution 1794, the Senecas were to receive \$16 million for the damage and relocation forced on them by the construction of the Kinzua Dam. The resolution passed the House of Representatives but stalled in the Senate. The Committee of the Interior slashed the budget to \$9,123,000, even though there was adequate proof justifying the amount of \$16 million. A rider attached to the resolution required the Senecas to submit within two years a plan for termination of their special relationship to the federal government (Christian Century

1964). The Senecas believed that the termination rider was linked with the compensation bill to force them to terminate (Christian Century 1964). If they refused the resolution altogether, they would lose not only their homes but the means to acquire new homes.

The Senecas eventually received \$5,466,615.04 with \$546,661.50 going to legal fees (Abrams 1976). In 1965, they went to court again to halt the construction of a four-lane highway through the remainder of their reservation land. Once again, they lost, and their land was further reduced.

THE PICK-SLOAN PROJECT

The most detrimental dam project to Native Americans in the United States is undoubtedly the Pick-Sloan Project. Situated on the Missouri River, the Pick-Sloan project consists of a number of large dams located primarily in the Northern Plains. The purpose of the Pick-Sloan project was to control flooding, produce hydropower, and increase navigation trade. But this project came at a great cost to the many reservations which bordered the Missouri River.

In total, twenty-three different reservations were affected by the Pick-Sloan project (Lawson 1982). Three of the dams alone flooded 202,000 acres of Lakota land (DeLoria 1994) (see Table 2). All of the reservations combined lost a total of 353,313 acres for reservoir storage (Department of the Interior 1954) and a total of and more than 900 Native American families had to be relocated (Lawson 1982). The heaviest damage to a single reservation was inflicted upon the Three Affiliated Tribes (Mandan, Arikara and Hidatsa) of North Dakota. Their entire reservation life was disrupted by the Garrison Dam and the huge reservoir that would form behind it.

The Fort Berthold Reservation, home to the Three Affiliated Tribes, was the first to deal with the Pick-Sloan project. The people of this reservation lived predominantly on the bottomland along the Missouri and, as a result, they suffered the greatest devastation to their community and way of life. The Three Tribes were successful ranchers and farmers whose means of income depended on the lands on which they lived. They lost 94% of their most productive land—in total, 152,360 acres—and over one-fourth of their total land base (Lawson 1982). These lands were submerged beneath the waters of the reservoir created by the 212-foot-high Garrison Dam. However, without Congress' approval, the Corps modified the construction of the dam, reducing the height to avoid flooding the predominantly White town of Williston, North Dakota.

Some 349 families, approximately 80 percent of the tribal population as well as the agency center, had to be relocated (Lawson 1982). The community life for these people, who relied heavily on kinship groups and other primary groups was destroyed. Some people moved to urban areas where they lived a life of despair. Among these previously successful ranchers and farmers, unemployment rose to 79 percent (Lawson 1982).

Like the Seneca tribe, many of the Native nations along the Missouri were unaware of the plans that were to affect them until it was too late. The Missouri Basin States Committee (MBSC), a group composed of representatives from the Bureau of Reclamation, Corps of Engineers, business people in the Upper Basin, and government representatives from the states of South Dakota, North Dakota, Wyoming, Montana, Nebraska and later Kansas, Missouri and Iowa formed a permanent coalition to push for a water development program for the Missouri River (Schneiders 1996). This group supposedly was to represent a broader political and economic perspective on the project, and yet not one Native American was invited to become a member to represent the interests of the Native Americans, the group of people who would be most drastically affected by the proposed project. Even when the MBSC held public forums in cities all along the Missouri to inform the people of the proposed project, not one forum was ever held on any of the reservations for the sake of the Native Americans (Schneiders 1996).

The Three Affiliated Tribes tried to negotiate with the Corps of Engineers and the government to compensate them for the great loss they were to suffer. They originally requested an equivalent amount of compensatory land, 20,000 kilowatt-hours per year of electricity, permission to graze and water their cattle along the margins of the reservoir, and first rights to the timber which the reservoir would flood (Reisner 1986). In the end, what they received added insult to injury. The tribe received only \$5,105,625 for their lost lands which calculated out to a mere \$33 per acre. Furthermore, they could not water their cattle along the reservoir nor fish, hunt or use the reservoir for any other purposes, they were forbidden to use any of their funds to hire attorneys to fight for further compensation, they would not be given any free electricity and they could not even harvest the timber that was flooded by the reservoir (Lawson 1982; Reisner 1986). They were able to seek further compensation through Congress, where they were eventually awarded another \$7.5 million; this brought the entire settlement to \$12,605,625, well below the \$22 million the Three Affiliated Tribes felt was a fair market price (Lawson 1982).

The next reservation to succumb to the Pick-Sloan project was the Yankton Reservation. The Corps of Engineers apparently was aware of the lack of organization on this reservation and quickly set out to condemn thirty-one tracts of land on the reservation. A move that was illegal and which violated the Yankton Treaty of 1858 and also disregarded legal precedents established by the Supreme Court (Lawson 1982). Not only did the Corps illegally confiscate the land, but upon deposit of \$132,324 in the federal district court, the Corps took immediate possession of the land and charged rent to the 19 families still living on it (Lawson 1982). The Yankton Lakota, unaware of their rights, did not challenge the action and the district court magistrates apparently did not do thorough research regarding other legal decisions. It would take six years before the Yankton people would receive any additional compensation for their forced resettlement.

By the time the Oahe Dam was scheduled to begin construction, William Zimmerman, Jr., Acting Commissioner of Indian Affairs, took action to provide the Native people with more humane treatment in regards to their resettlement process. Senator Chan Gurney and Congressman Francis Case of South Dakota introduced legislation which would establish legal guidelines in the facilitation process and which would require the Bureau of Indian Affairs and the Army Corps of Engineers to work together to reach a settlement similar to that of the Fort Berthold agreement (Lawson 1982). In September of 1950 the bill was passed requiring both the Corps and the secretary of the interior to work with representatives from the various tribes. The bill also required that settlement not only cover the cost of land but allow for improvements and relocation of the people "so that their economic, social, religious, and community life can be reestablished and protected" (Act of 30 September 1950).

While this act was a step in the right direction, it did ignore some serious concerns. It did not set aside any electric power for the exclusive use of the tribes, requiring the native people to purchase electricity at the same rate as rural cooperatives and public bodies. Congressman Case pointed out that this cost would be so detrimental to the tribes that it would negate any compensation they may receive. The law also did not provide any legal compensation for the tribes nor did it resolve the question of shoreline access rights (Lawson 1982).

The Cheyenne River, Standing Rock Lakota, Lower Brule and Crow Creek tribes were determined to receive better settlements than the Fort Berthold tribes and the Yankton Lakota. This battle would take much longer

and was much harder than they had anticipated. The tribes attempted to hire outside attorneys to assist them in their battle for fair negotiation settlements. Even this proved to be a difficult task. The Standing Rock tribe sought to hire an attorney using their own tribal funds. The tribe wanted to hire an attorney who could represent them throughout the negotiations no matter how long they took. They sought the services of James E. Curry, a Washington attorney who was known to be extremely critical of the Bureau of Indian Affairs. But Indian Commissioner Dillion S. Myer, a bitter enemy of Curry and former administrator of the Japanese internment-camp program, refused to approve this action and instead would only allow a one-year contract. Myer also refused Curry's contract with the Crow Creek Lakota as well as 12 other tribes (Lawson 1982). For his actions on this matter, Myer received strong support from many people in Washington, including members of the Senate Indian Affairs Subcommittee. The Standing Rock tribe made a formal protest to Interior Secretary Oscar Chapman who dragged his feet for some time before making any decisions. It was not until a contingent of the tribes camped for 26 days outside of Chapman's office that he finally rendered a decision. He sided with the Lakota and approved an important decision for all Native people in the US: that they could hire their own attorneys and make their own contracts with the attorneys.

But Myer retaliated by controlling the purse strings of the B.I.A. He would only allow the Standing Rock tribe to use \$300 per year for legal fees, thereby almost destroying any means for competent legal representation for the tribes. Furthermore, Myer blocked other attempts by the tribe to hire outside attorneys. In the end, the tribe felt compelled to hire an attorney which Myer approved. They had to settle for M.Q. Sharpe, former governor of South Dakota and a strong supporter of the Pick Plan in the 1944 congressional debate (Lawson 1982).

Obtaining fair settlement terms from the Army Corps of Engineers was nearly impossible for the tribes, and most of the tribes eventually took their cases to the courts to be settled. The Cheyenne River tribe eventually received \$10,644,014 for their lost land and forced relocation however, this was \$13 million less than originally requested. And while they did retain all salvage, mineral and shoreline rights, they did not receive a block of hydroelectric power nor exclusive shoreline recreation facilities rights. Furthermore, Congress denied the federal trust status to lands purchased outside the reservation as substitution for the inundated lands and final authority for disbursement of funds was given to the Secretary of the Interior, not the tribal council (Lawson 1982).

The Yankton Lakota received \$106,500 in addition to the \$132,324 paid by the Army Corps of Engineers. The Yankton tribe received the same shoreline rights as the Cheyenne River tribe but the mineral rights were reduced to gas and oil only. Furthermore, the Yankton Lakota were unable to secure rehabilitation funds which would have helped them improve the social and economic situation for the entire tribe.

The Crow Creek, and Lower Brule fared somewhat better than the Yankton tribe. The Crow Creek tribe settled for \$4,366,802 and the Lower Brule settled for \$3,194,465 with additional rights similar to those granted to the Cheyenne River tribe (Lawson 1982).

Even though the Standing Rock tribe sustained less damage than the Cheyenne River tribe or the Fort Berthold tribe, they fared much better in terms of settlement. In the end they eventually received \$12,346,553 in funds along with some additional benefits. Their settlements funds were exempted from taxation and these funds were also exempt from any previous debts or loans except those owed the federal government or tribal government (Lawson 1982). Any land not needed for the Oahe Dam project was to be returned to the Standing Rock Lakota (although no lands were returned); oil and gas were specifically included in the mineral rights, and the tribe was given 60 days to salvage property (Lawson 1982). They also fared better in terms of their negotiating compensation. The Standing Rock tribe received \$135,000 compared to the Cheyenne River's \$100,000. Also, the Standing Rock tribe were not restricted in how these funds could be used. The Cheyenne River tribe could not use more than 50% for legal accumulated legal fees.

In the end, the losses suffered by the tribes far outweighed any monetary gains they may have made in the courts. The Fort Berthold tribes were severely traumatized and never fully recovered from the loss of their lands. The lives of all of the affected tribes were greatly affected. Not having access to the rich bottomlands was detrimental to the very life of these people. These areas provided them with free fuel and timber for use in their homes. Loss of these wooded areas forced into a cash economy rather than a subsistence economy, further sapping their low incomes. The bottomlands were also rich in wild plant life, essential to the diets of these people. The gathering of these fruits and vegetables is a practice which extends well back into their history and which is a tradition in their culture. The wild herbs and plants were used not only for food, but for religious purposes as well. Loss of these plants severely disrupted their religious practices and ceremonies (Lawson 1982; Reisner 1986).

The bottomlands also provided shelter during the hot blazing sun of summer and protection from freezing blizzards in the winter. Homes built on higher ground required greater insulation due to the exposure of the open plains; the people were no longer able to heat by wood stoves, but were forced to seek other, more costly fuels.

The wooded areas were abundant with wildlife which not only supplemented the diets of the Native people, but provided a source of income. The Pick-Sloan project reduced the wildlife population by 75 percent, severely restricting the available food source and income. (Lawson 1982).

Ranching had become the primary means of income on nearly all of the reservations. The inundation of the prime rangeland had severe affects on Native ranchers. Some ranchers were forced to liquidate and others had to substantially reduce the size of their herds because of the poor grazing lands, loss of natural shelter, lack of freely available water and the requirement of fences to protect the herds from the fluctuating waters of the reservoir.

People who had become self-sufficient and conformed to a more sedentary life had the very fabric of their lives ripped away again by the building of these massive dams.

CONCLUSION

In order to receive any form of compensation for the loss of their homes and their lands, the Seneca tribe were forced to submit a plan for their termination requested in the rider attached to House Resolution 1794. For the tribes along the Missouri, a more indirect approach was taken in the form of destruction of their communities. This forced many people to leave the reservation altogether and, in many cases, destroyed their means of subsistence. While the reservations along the Missouri did not have a direct request for termination, the devastation to their reservations amounted to the demise of their culture. One wonders whether some politicians and others found the dams a convenient means of further destroying the Native American culture.

More recently, there have been some gains made by tribes to protect their reservations and the destruction of their culture. The Yavapai of Arizona were successful in stopping the building of the Orme Dam in its original location, thereby saving their reservation and blocking their forced removal. Native American groups in the Northwest have formed an organization to protect their fishing rights along the Columbia River, and the tribes along the Missouri have formed the Mni Sose Intertribal Water Rights Coalition, an organization to protect

themselves from losing further lands and to protecting their water rights. Native Americans need to stay informed and to organize to protect themselves from further encroachment on their lands by dams and reservoirs, and to protect their water rights granted to them in the numerous treaties made with the US Government.

TABLE 1. *Surface Water on Lands Under BIA Jurisdiction*

TYPE OF WATER	NUMBER	SURFACE ACRES	MILES	SHORE LINE MILES
Natural lakes and ponds	5,690	1,001,825	-	5,845
Reservoirs & impoundments	17,537	507,139	-	4,573
Perennial streams	4,047	384	14,279	6,500
Coastal	349	-	39	330
TOTAL	27,623	1,509,348	14,318	17,248

Source: *Bureau of Indian Affairs Natural Resource Information System Inventory and Production Report, 1989*, United States Department of the Interior, Report No. 55-38-X, p. 3. A dash (-) indicates no data given in original source.

TABLE 2. *Impact of The Pick-Sloan Project on Reservation Lands*

	Amount of Acres Lost	Number of Families Relocated	Percentage of Population	Type of land Lost
Ft. Randall Dam	22,091	136		
Lower Brule	7,997	35	16%	1/2 sheltered pastureland
Yankton	3,349	19	8%	
Crow Creek	9,514	84	34%	bottomland, 1/3 timber
Oahe Dam	160,889			
Standing Rock	55,994	170	25%	rangeland, agricultural, timber, wild fruit, wild-life
Cheyenne River	104,420	180	30%	s/a above
Big Bend				
Lower Brule	14,609	62	53%	timber, pastureland, farms, ranches
Crow Creek	6,417	27	11%	farms, ranches
Garrison Dam				
Ft. Berthold	152,360	349	80%	agricultural, grazing land, timber

Source: M. L. Lawson, *Dammed Indians*, 1982, University of Oklahoma Press.

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