Exploration of the Pikuni world view| Pikuni water rights in the Ceded Strip

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AN EXPLORATION OF THE PIKUNI WORLD VIEW;

Pikuni Water Rights in the Ceded Strip

by

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B.A. Hobart College, 1989

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for the degree of

Master of Science

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Date
In 1896, the Pikuni Nation ceded the ownership title to a strip of land comprising the westernmost section of their reservation. This land is known to Euro-Americans as a part of the Rocky Mountain front, and to the Pikuni as the "ceded strip". Within the formal Agreement of 1896, the Pikuni explicitly reserved rights to carry out certain activities which involved the use of certain elements within the landscape of the "ceded strip" (e.g., hunting and fishing).

However, within the 1896 Agreement, the Pikuni implicitly retained the right (both indirect and direct) to the waters within the "ceded strip" landscape. This implicit water right is legally binding under the Reserved Water Rights Doctrine and/or other legal constructions related to Indian rights of access and use of natural resources (i.e., Aboriginal Rights).

Furthermore, the cultural perspective of the Pikuni in the late nineteenth century, was such that Pikuni Water Rights within the "ceded strip" necessarily include the right to unpolluted, undegraded water. Therefore, any pollution of said water would constitute a violation of Pikuni Water Rights as retained within the 1896 Agreement.
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Chapter 1

INTRODUCTION/ FUNCTIONING PREMISES OF THE PIKUNI WORLD VIEW

The three Nations of the Blackfeet Confederacy are the Blackfoot (Siksikah), Bloods (Kainah), and the Piegan (Pikuni). Within the proto-historic, and historic periods, the Gros Ventre (Atsina) and the Sarsi were sometimes included as part of the Blackfeet Confederacy.

To avoid confusion in referencing the Confederacy, the Blackfoot Nation will be referred to as Siksikah; while the Confederacy will be referred to collectively as the Blackfeet. By the mid-nineteenth century, the Pikuni were divided into two groups, northern and southern, each residing on their respective side of the Canadian/American border. Henceforth the name Pikuni will refer to the southern Pikuni unless otherwise specified.

The territory of the Confederacy comprised a vast region both north and south of the Canadian/American border in present day southcentral Alberta and central Montana. The southernmost Nation of the Blackfeet Confederacy, the Pikuni, continue to live on or near the Rocky Mountain Front within the borders of present day northwestern Montana.

Since time unknown, the Pikuni have lived in a close relationship with the environment of the Rocky Mountain Front (Greiser and Greiser 1993: 2-4). From this existence, great depths in understanding their world have come to the Pikuni through various means. This understanding created the
ontological framework from which the Pikuni world view is born. In his book, *African Worlds*, Robert Redfield provided a succinct definition of a cultural "world view".

World view differs from culture, ethos, mode of thought, and national character. It is the picture the members of a society have of the properties and characters upon their stage of action. While "national character" refers to the way these people look to the outsider looking in on them, "world view" refers to the way the world looks to that people looking out. (African Worlds 1962: 276)

Certainly, the world view of the Pikuni was, and continues to be ever changing as experiences within their ontological environment affect individual Pikuni and the Pikuni Nation as a whole. Yet there are many basic principles of the Pikuni world view which remain at the core of a Pikuni understanding.

That is, in more recent years, the welfare of the Pikuni people has moved toward a dependence on a money based economy, thereby altering much of Pikuni daily life as it existed prior to contact with Europeans. Yet upon further inquiry one finds that the Pikuni have incorporated contemporary activities involving a money based economy, and other associated aspects of contemporary life, within a unique and flexible world view.

The potential for blending contemporary economic reality within the context of a world view greatly affected by ancient occurrences and conditions is an interesting and thought provoking topic. It may very well testify to the strength and resilience of the Pikuni culture. However, further discussion of such a topic would be tangential to the more narrow
purposes of this study.

In the latter half of the nineteenth century, the Pikuni world view was questioned significantly by Western minded persons who often viewed the Pikuni as an impediment to the perceived "progress" of the Euro-American society. As a result of this perception, little respect was afforded to the well established, but quite unfamiliar world view of the Pikuni people.

The importance of this time period cannot be overstated. It was here that much of Pikuni life would change forever. However, this change did not occur rapidly. Many cultural values and perceptions continued throughout the last century despite the best efforts of the United States to suppress virtually anything considered "Indian."

FOCUS OF THE PAPER

This paper will examine a formal Agreement between the United States and the Pikuni ratified by Congress in 1896. In this formal Agreement, the Pikuni ceded the ownership title to a strip of land comprising the westernmost section of their reservation. This land is known to Euro-Americans as a part of the Rocky Mountain Front, and to the Pikuni as the "ceded strip". Within the formal Agreement of 1896, the Pikuni explicitly reserved rights to carry out certain activities which involved the use of certain elements within the landscape of the "ceded strip" (i.e. hunting, fishing). The purpose of this paper is to establish that the Pikuni
implicitly retained the right to the waters within the "ceded strip" landscape, and that reservation of such constitutes the establishment of legally enforceable water rights.

Moreover, the cultural perspective of the Pikuni was such that the water rights reserved by the Pikuni in negotiating with the United States Commission necessarily included the right to unpolluted, undegraded water. The paper will therefore claim that any development (e.g., oil and gas drilling) within the "ceded strip" that has polluted, or will pollute the water of the area in a way unfamiliar to the Pikuni in 1895, constitutes a violation of Pikuni water rights.

To establish the foundation for a discussion of such legalities, it is important to examine more closely the cultural context in which the 1896 Agreement was negotiated. This paper will therefore discuss some aspects of the Pikuni peoples' unique relationship with the landscape in which they lived, focusing primarily on their cultural perception and value of water.

Following a general discussion of the Pikuni world view, tenure and site locations of the Pikuni will be provided in chronological order to conceptually solidify the Nation's existence in space as well as time. This will provide the framework from which to discuss some legal implications of the 1896 Agreement.
FUNCTIONING PREMISES OF THE PIKUNI WORLD VIEW

There are multiple conceptual understandings within the Pikuni world view, most of which are quite foreign to the Western minded. For such persons, the Pikuni world view may easily appear to be confused, encompassing many inconsistent premises.

Upon further investigation, however, it becomes apparent that the world view of the Pikuni was unique, rather than confused, being inherently suited to the surrounding conditions in which the Pikuni people lived for countless generations prior to contact with the European world view. The Pikuni world view was primarily a dynamic relationship with their surrounding landscape, quite different from that of Western civilization. Thus, in attempting to understand even a small part of the Pikuni world view it is important not to question the precepts of that world view in a demeaning manner.

In coming to understand any cultural world view, one must either have lived in that culture from birth, or have spent a great deal of time (decades) coming to understand the people of the culture, neither of which the writer can claim as his personal experience.

To fully explain Blackfoot religion [culture] - if any outsider was privy to and could fully understand this religion [culture], would require knowledge beyond the written record... Such an explanation would require an understanding of every individual’s religious [cultural] experiences and their "power" of "medicine", and how these experiences influence the individual’s band and the
nation, as a whole. (Greiser and Greiser 1993: 2-7)

Ideally, to write a report describing certain aspects of the traditional Pikuni world view, one ought to allow many years of study before putting "pen to paper." Yet, lacking primary knowledge and experience over an extended period time with the Pikuni, one must find alternative means to best explicate these aspects of the Pikuni world view even within a limited temporal scale and historical context.

Within the Pikuni world view, the term "natural environment," as used by most Western writers, is not a recognized concept. In fact, the Pikuni do not recognize any distinction between such Western conceptions of the "natural," "supernatural," and "unnatural." All that exists and occurs is both "natural" and "supernatural" at once, subsequently rendering at least the term "unnatural" as irrelevant to the traditional Pikuni world view.

Moreover, any distinction or separation of the two former conceptual terms would be an inaccurate imposition upon their world view. Thus, for instance, phrases like "natural environment" are at best rough interjections used by many Western writers in attempting to speak of a world view grounded in wholly differing ontological foundations.

Through activities such as hunting, fishing, cutting wood for fire and other domestic uses, gathering roots, berries and other plants, the Pikuni not only maintained their welfare, but during such activities, interacted with certain "medicine
powers" of the surrounding landscape. The prey of the hunter, or the root gathered by the gatherer were powers of the universe from which the Pikuni were provided a means of living. Many such activities, involving direct interaction with such medicine powers within the surrounding landscape, continue to play a part in the lives of many Pikuni.

In her report entitled "Blackfeet Use of the Badger Two-Medicine," Sherri Deaver stated the following;

Traditional Blackfeet theology does not categorize or classify the world into sacred/holy and profane/mundane parts but rather recognizes sacred and profane aspects of all things. (1988: 12)

Unfortunately Deaver interjects the term "theology," thereby mistakingly implying a religious tone which is inappropriate. However, she does acknowledge one of the most pervasive elements of the Pikuni world view.

Provided with an inherently holistic conception of their surrounding landscape, the opportunity for daily subsistence carried with it an obligation of respect and reverence for that medicine power(s) upon which the Pikuni depended. For all aspects of one’s surroundings were, by definition, the very embodiment of differing "medicine powers" existing throughout all places and at all times. Much of the manner in which this reverence is expressed has been known for many generations and maintained through the oral tradition.

The Pikuni oral tradition has existed from generation to generation through orally recounting particular happenings
that often involved some interaction with the surrounding landscape. Through the oral tradition, the Pikuni not only reinforced certain precepts of their cultural perspective, but provided knowledge, practical and what Western society would describe as ethical, to younger generations for maintaining a constructive and functional relationship with the many medicine powers of the landscape. Much of the oral tradition teaches the origin of ceremonies, while other aspects of the oral tradition speak of occurrences involving daily activities. Through such oral traditions, it was taught that all aspects of life, ceremonial, or otherwise come from the same sources of "medicine power."¹

Thus, daily activities, as well as ceremonies and other special events, all exist under the same guiding principles of life. For instance, an individual may be granted success in hunting through medicine powers in the sweat lodge or during the annual Sun Dance. Likewise the buffalo will come to the hunter if the buffalo calling ceremony is properly executed.

Under such circumstances, a vision quest, a sweat in the sweat lodge, a hunt for buffalo, or gathering of needed medicinal roots are all interactions with one or more of the many medicine powers. Such activities involving the surrounding landscape are neither secular, nor spiritual but of a holistic quality encompassing both these aspects of

¹ More will be discussed concerning the "water medicine power" within oral tradition later.
The Pikuni viewed their world in a highly personalized context. Medicine powers existing throughout all aspects of one’s surroundings were personally interacted with on a daily basis, as well as on special ceremonial occasions. Indicative of the Pikuni world view, when carrying out daily activities, the expression of reverence was most often the obligation of the individual (eg. gathering water in a manner respectful to the water medicine power or perhaps the "under water people^2.")

There were, however, many directives for appropriate behavior in carrying out such activities. If the relationship with a medicine power was violated through non-compliance with such directives, the individual, his/her family, or even the whole Nation may be negatively affected in some way by the offended power. The successful hunter or gatherer was thus responsible for maintaining his/her personal relationship with that power he/she interacts with through an expression of reverence in the appropriate manner.

Plants, animals, rocks, and stars are thus seen not as 'objects' governed by the laws of nature, but as 'fellows' with whom the individual or band may have a more or less advantageous relationship (Wax 1922: 177)

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2 The Under Water Person was in large part manifested as the beaver of the river or stream. This will be discussed in a later chapter.

3 Many such guidelines and protocol measures have been known for generations and continue to be known through the oral tradition.
Finally, for the Pikuni people as a whole, reverence for the most powerful, generally life sustaining medicine powers was expressed and reinforced through elaborate ceremonial activity. Here again, the manner in which such reverence is expressed has often been known for generations and continues to be known through the various means of the Pikuni oral tradition (ie. Sun Dance).

Each ceremony demanded a particular protocol and was often, in part, the symbolic manifestation of the ancient and on-going relationship of the Pikuni to the collective medicine powers embodying the surrounding landscape.

Man is part of the spiritual universe. He can and does have direct communication with the mysterious force that is part of the universe. Mechanisms for communicating with this force include prayer, fasting, sweat baths, group ceremonial such as the Sun Dance, and bundle openings. (Deaver 1988: 12)
CHAPTER 2

HISTORY OF THE PIKUNI; LAND AND TENURE

In exploring the historical context in which the Pikuni encountered increasing pressures from the non-native society, one may examine more closely where the Pikuni lived to better understand their relationship with the landscape in which they lived. Moreover, one may infer the unique significance of particular landscape features throughout Pikuni aboriginal territory as they conformed to (and resisted) an increasingly limited geographic area.

As the nineteenth century progressed, the relationship of the Pikuni to the landscape grew increasingly limited in geographic scope as a result of non-native encroachment. Such restrictions in the geographic scope of this relationship must have ultimately required changes in where the Pikuni lived as they continued to resist such pressures from Euro-American society.

However, chosen camp locations during this time period, relative to particular landscape elements (eg. rivers, streams), appear to have remained unchanged even within an increasingly limited geographic territory. This may indicate a steadfast value and importance of such landscape elements to the Pikuni in their daily lives throughout the last century. Here we may better understand some of the aspects contributing to the Pikuni world view during a time of intense cross-cultural relations with Euro-Americans.
Figure 2. Aboriginal, Historic and Current Blackfoot Lands in Montana.
TENURE

In order to discuss some of the known, site specific locations of the Pikuni during the nineteenth century, it is first important to have an understanding of their general location and tenure in such areas prior to the nineteenth century. Over the past ninety years, there has been great scientific speculation as to how long the Blackfeet have lived along the Rocky Mountain Front in present day Alberta and Montana. To date, there is no conclusive evidence of a specific time when the Blackfeet first came to those areas now designated in part for the Southern Pikuni in Montana; and the Northern Pikuni, Kainah and Siksikah in Alberta (Greiser and Greiser 1993: 2-4).

Some scientists have argued that the Blackfeet have only recently (within the past 300 years) arrived on the Northwest Plains near the Rocky Mountains. (e.g. Beidl 1992, Ewers 1974) In her report entitled "The Blackfeet and the Badger Two-Medicine: An evaluation of Potential Traditional Cultural Significance Drawn From Archival Sources," Beidl states;

The acquisition of superior mounts and weapons, combined with the diminished fighting strength of the Shoshone as the result of a smallpox epidemic, enabled an allied force of Blackfeet, Assiniboine, and Cree to defeat them in about 1733, and initiate a period of great westward and southwestward expansion. The movement was led by the Pikuni ... (1992: 13)

With this statement, Beidl and others have concluded that the Blackfeet first arrived in their present area in the mid-eighteenth century. However, with further investigation, such
conclusions appear to be premature at best, and perhaps quite erroneous. To begin with, one archeologist, working from Calgary Alberta, has found reference to a Pikuni presence in the Northwestern Plains of Montana on the earliest maps of the area dating to the turn of the eighteenth century (Reeves 1993).

A team of anthropologists/archaeologists working for Historical Research Associates of Missoula, Montana has recently provided a well documented discussion which suggests a much longer Blackfeet tenure on the Northwest Plains (Greiser and Greiser 1993). Some of the following has been excerpted from their report.

Early in this century, Clark Wissler became the first trained anthropologist to study the Blackfeet in depth. After years of personal contact with elders primarily of the Pikuni Nation living in Montana, and a thorough review of historic resources, Wissler found that, "...no satisfactory evidence has come to hand that the Blackfeet [sic] ever occupied other definite territory than their historic habitat, the western Plains" (Wissler 1908: 18).

Archeological evidence indicates that the Blackfeet have lived in the Northwest Plains for hundreds and perhaps thousands of years. Both Reeves (1983) and Greiser (1988) have suggested that the Blackfeet people as a whole have lived on the Northwest Plains since approximately A.D. 500, as represented by the distribution of Besant projectile points.
Reeves (1993) has more recently suggested that the Blackfeet people have lived in this area for several thousand years based upon the distribution of Oxbow projectile points.

Although there has been much controversy regarding Blackfeet tenure in the Northwest Plains region, the most recent and comprehensive archeological studies have suggested a much longer presence of the Blackfeet (and hence the Pikuni) in this area than had previously been concluded (Greiser 1988 and Reeves 1993).

BRITISH CONTACT

During the late eighteenth and early nineteenth centuries, the Blackfeet lived along the Rocky Mountain Front between the Two Medicine valley on the south and the North Saskatchewan in the north (Wissler 1909: 10-12).

The first man to record such was Anthony Hendry, an employee of the Hudson bay Company. In his journal covering the years 1754-55, Hendry makes note of meeting a large group of Archthinue Indians. These Indians were later identified as one of the Blackfeet Nations by another Hudson Bay employee, Matthew Cocking (later discussed).

On October 14, 1754, Hendry described how he "came to 200 tents of Archthinue Natives pitched in two rows, and an opening in the middle...." three days travel westward from the Red Deer River and approximately 40 miles from the Knee Hills (Burpee 1907: 337-338). On October 17, 1754, this large group (now 322 tents) moved westward approximately 70 miles (Burpee..."
1907: 340-41). The movement westward would have placed this very large camp of Blackfeet near the foothills of the Rocky Mountains.

In 1772, Matthew Cocking followed an almost identical route as that traveled by Hendry. Cocking’s journal covering most of 1772 and 1773 provides the second recorded direct interaction between the British and the Blackfeet.

Prior to contacting the Blackfeet, Cocking made note of a buffalo pound south and west of Eagle Hills, near Calgary, Alberta. He describes the pound’s physical characteristics, and through his native travelling guides he learns that the pound had been constructed by the Blackfeet the previous spring (Burpee 1909: 109).

Cocking later concludes that the Indians were living primarily to the southwest, moving to the northeast in March to trade with natives closer to Hudson Bay (Burpee 1909: 110). On November 21, 1772, Cocking provides the first definitive evidence that these Indians are indeed Blackfeet.

There are four tribes, or Nations, more, which are all Equestrian Indians, Mithco-Athiunack or Bloody Indians, Koskitow-Wathesitock or Blackfooted Indians, Pegenow or Muddy Water Indians, and Sassewuck or Woody Country Indians (Burpee 1909: 110).

David Thompson was the third liaison sent by Company to establish greater trade in the Northwest Plains and
specifically with the Blackfeet. From 1787-1812 Thompson made frequent contact with the Blackfeet. Yet, he was the first to specifically mention and distinguish the Pikuni from the other Nations of the Blackfeet.

Thompson's first contact with the Pikuni is in the year 1787. He wintered with the Pikuni approximately fifteen miles west of Calgary, Alberta (present day) along the foothills of the Rocky Mountains (Hopwood 1971: 82). The following year (1788) Thompson camped along the Bow River with an old man (Saukamappee, a Cree Indian) who was living with the Pikuni (Hopwood 1971: 95-96). During his stay with Saukamappee, Thompson learned of a series of battles between the Pikuni and Snakes (Shoshone) on the Red Deer River near Eagle Hills circa. 1730 (Hopwood 1971: 191) indicating competing interests in the area almost sixty years earlier.

In 1800, Thompson described the territory of the Blackfeet Confederacy as a whole.

...[the Blackfeet] have their west boundary to the foot of the Rocky Mountains, southward to the northern branches of the Missouri, eastward for about three hundred miles from the mountains, and northward to the upper part of the Saskatchewan (Hopwood 1971: 204)

Another trader, Alexander Henry (the younger) established a new trading post southward on the Milk River in 1810. The Pikuni reportedly were using a buffalo pound near the Red Deer

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4 Through this time, the Company had been having great difficulty in enticing the Blackfeet to trap and trade beaver pelts, the main article of trade in the eighteenth century.
River that could supply Henry with buffalo robes for trade.\(^5\)

At this time, many of the Pikuni lived along the Bow River (Brown 1992: 593).

One year later (1811), Henry describes the general territory of the Pikuni.

The country which the [Pikuni] call their own, and which they have been known to inhabit since their first intercourse with the Traders upon the Saskatchewan [sic], I have already observed is along the foot of the Rocky Mountains, the Bow River, and even as far as the banks of the Missouri [sic], to the southward (Brown 1992: 535 and Coues 1897: 723-24).

AMERICAN CONTACT

During the well known Lewis and Clark expedition into the Northwest Territories, Meriwether Lewis would encounter a band of Indians camped in the Two Medicine Valley. On July 25, 1806, a party of hunters from Lewis' expedition had found many lodges recently abandoned along the Cut Bank River. On the same day, another scouting party had noted lodges along the Two Medicine River that had apparently been occupied the previous winter. The location of the Two Medicine lodges was approximately one mile down river from the confluence of Badger Creek (Wheeler 1904: 307-311).

Two days later, Lewis' party encountered the Pikuni for

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\(^5\) Few among the Blackfeet tribes were known to trap and trade beaver, the primary article of trade at this time. Buffalo, kit foxes, wolves, and a few other furry creatures were thus the mainstay of Blackfeet trade with Europeans. However, Henry does make note of a band that lived almost exclusively in the foothills region and did hunt a few beaver for trade (Brown 1992: 536 and Coues 1897: 723-24).
the first time. Following a tense introduction through hand signing, the two parties camped four miles down the Two Medicine River from the confluence of Badger Creek (Wheeler 1904: 397-311). According to Lewis’ journal entry, on July 27, 1806, a small outbreak of violence between the Indians and Lewis’ party occurred in which two Indians were killed. Lewis originally identified the Indians as Gros Ventre in his journal (Ewers 1968: 52-53). However, other texts have suggested the Indians were in fact Pikuni (Wissler 1910; West 1964; Tyrell 1916)\(^6\).

For instance, in 1807, David Thompson mentions that the Pikuni went south to avenge the deaths of their relatives in the Two Medicine Valley (Hopwood 1971: 375). In 1895, Wolf Calf (Pikuni), told George Bird Grinnell that he had been a member of the group that had encountered Lewis in 1806 (Wheeler 1904: 311-312)\(^7\).

**PRE-RESERVATION NINETEENTH CENTURY**

The following series of references have been gathered from various sources, some of which contain significant conjecture, and speculative aspects. However, sources such as these also provide numerous anecdotal evidence from which to

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\(^6\) Given the close relationship of the Atsina and Pikuni during various time periods, it would seem highly probable that Lewis may have been mistaken in his identification of the Indians he encountered.

\(^7\) There are a number of other sources which indicate that Lewis’s party had encountered the Pikuni. These include Wissler 1909: 36-38, Schultz 1962: 312, McClintock 1923: 155.
draw. Much of the information gathered is from the remembrances of elderly informants of the late nineteenth century.

Although the exact years of particular occurrences remembered by such elderly informants may not be precise, they are presented here as such for the sake of establishing the locations of the Pikuni in general chronological form. It is therefore assumed that information recorded from elderly informants is accurate to within a few years at least, and can be meaningful for such purposes.

The following references are only a small collection of the potential references regarding the site locations of the Pikuni throughout the nineteenth century. However, the chronology is intended to provide further indication of the relationship of the Pikuni to their immediate surroundings and site preferences.

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8 The traditional method of recounting one’s experiences is most often to refer to the winter camp of the individual’s band.

9 It is important to note that when an elderly informant relays information regarding his people, he may be referring to his band within the Pikuni rather than the entire nation. This is significant in that it may indicate differing locational preferences within the larger organization of the nation. According to Ewers (1955), the Pikuni often spent much of the year in small bands, coming together again in the early summer for the annual Sun Dance.

10 References included for each decade are not intended to indicate the overall locations of the Pikuni. They are merely a reflection of available data. Different bands among the Pikuni often camped in quite different areas within Pikuni territory.
1810’s

In 1815, the Pikuni wintered along the Sun River and hunted along the Missouri River towards the summer; the following year (1816) the Pikuni hunted along the Yellowstone River in the summer and then wintered north of the Marias River (Schultz 1916: 3). In the same year Hugh Monroe (Rising Wolf), the first white man to live with the Pikuni, camped with the Pikuni at St. Mary Lake (Lakes Inside) (Schultz 1916: 146).

1820’s

In a letter dated July 7, 1824, Daniel Potts, a trader with the Pikuni and Kainah, wrote a letter to his sister in which he described the Blackfeet (unclear if Pikuni) as camped along the Musselshell River in 1822. In two successive letters dated July 8, 1827 and October 13, 1828, Potts wrote that the Blackfeet are constantly "harassing" the expedition of two employees of the American Fur Trading Company in Yellowstone country (Stevens 195?).

1830’s

According to one early traveler in Pikuni country, the Pikuni had camped along Badger Creek just prior to his arrival (Schultz 1962: 24). Writing in the latter half of the century,

11 Both the British traders and the American Fur Trading Company were now trading with tribes west of the continental divide. These tribes were long-time enemies of the Blackfeet. Thus increasingly, the Blackfeet interpreted the traders’ actions as a threat and acted accordingly.
James Willard Schultz has recorded some conversations with Rising Wolf. During one such intercourse, Rising Wolf reported to Schultz that in the year 1833, many Pikuni were camped with Bear Chief on the Teton River near Priest’s Butte. Others were camped on the Sun and Missouri Rivers (Schultz 1973: 252). Also writing later in the century, J.H. Bradley, a lieutenant in the United States Army, recorded much information as related to him from Albert Culbertson, an old time trader with the Pikuni. According to Culbertson, the Pikuni most often wintered along the Sun, Missouri, and Teton Rivers during the 1830’s (Stewart 1961: 153).

1840’s

In the year 1840, Father DeSmet, working with the Flathead Indians, makes note of the Three Forks region as the territory of the Blackfeet and Crow (Chittendon 1905 vol.1: 233). In the same year, the Small Robes, Fat Roasters, and Many-Medicine bands wintered along the Two Medicine River (Wissler 1922: 48) Many years later an elderly informant to Clark Wissler, Elk Horn, relayed his “winter count” to Wissler.

His count began in about the year 1845 (Wissler 1909: 45-47). According to Elk Horn, in this year (1845) the Pikuni camped along the Missouri River and held their Sun Dance near Crow Garden.\textsuperscript{12} Elk Horn reports that the following year, the

\textsuperscript{12} The location of the Sun Dance is significant. The Sun Dance is a long, drawn out ceremony. In the nineteenth century, it often required the better part of the summer season to complete all the
Pikuni wintered close to Fort Benton, and then moved into the Yellowstone River country to hold the Sun Dance (Wissler 1909: 45-47). Father DeSmet is in concurrence with Elk Horn in finding the Pikuni in Yellowstone country (Chittendon 1905 vol.1: 48)

Elk Horn then remembers his people as having crossed back over the Missouri River to camp and trade at Fort Benton in 1847. The Pikuni wintered on the Marias River and later held a Sun Dance there. However, in the same year (1847) 300 lodges camped near the west butte of the Sweet Grass Hills (Schultz 1962: 264-270).

In 1848, the Pikuni camped on the Marias River throughout the summer, then hunted south of Fort Benton and later traded at the fort. The following year some of the Pikuni wintered on the Teton River, moved to the Missouri River in the spring and held two Sun Dances there. They then moved out to the Bear Paw Mountains near Crow territory (Wissler 1909: 45-47). According to Big Brave, some of the Pikuni wintered on the Marias River in 1849 (Wissler 1912: 48-50).

1850-1854

Elk Horn indicates that the Pikuni camped along the Two Medicine River in 1850 (Wissler 1909: 45-47). Big Brave reports the Pikuni as wintering on the Marias River in the same year (Wissler 1912: 48-50). In 1851, the Pikuni wintered in heavy snow along the Missouri River and later moved to the necessary rituals and activities involved.
Yellowstone River for the annual Sun Dance (Wissler 1909: 45-47).

In the last two years of the pre-reservation period (1853-54) some of the Pikuni camped along the Cut Bank River and then moved toward the Missouri River. They then moved south to the Sun River to trade at the Agency there. Others wintered near the Sweet Grass Hills, moved to the Marias River in the spring and then also moved south, probably closer to the Agency on the Sun River (Wissler 1909: 45-47). In 1853 Territorial Governor Isaac I. Stevens described the most preferred wintering locations of the Pikuni. "The winter homes of the Blackfeet, some six to seven thousand strong, are on the Teton, the Marias, and the Milk Rivers" (Ewers 1955: 125).

Other elderly Pikuni men remembered that the favorite winter home of the Pikuni was along the Marias River, but that most bands were spread out "...from the junction of Cut Bank and Two Medicine Creeks forming the Marias to the Big Bend of the Marias" (Ewers 1955: 125). Finally, one elderly Pikuni indicated that in his youth, his band camped along the Little River just north of the Bear Paw mountains during the springtime (Schultz 1973: 216).
THE RESERVATION PERIOD BEGINS

The first formal effort by the United States to treat with the Northwest Plains Nations came with the Council gathering of such Nations at Fort Laramie in 1851. However, the Council membership was not complete as the Blackfeet did not send representatives to the Fort.

It was assumed that the Blackfeet (for the most part Pikuni) considered the area south of the 49th parallel, north of the Missouri River, west of the mouth of the Milk River, and east of the Continental Divide to be at least a part of their aboriginal territory. Pikuni territory south of the Missouri River was defined in the subsequent Fort Laramie Treaty and written as follows:

Commencing at the mouth of the Musselshell [sic] River, thence up the Missouri River to its source--thence along the main range of the Rocky Mountains, in a Southern direction to the head waters of the northern source of the Yellowstone River,--thence down the Yellowstone to the mouth of Twenty-Five Yard Creek--then across to the head waters of the Musselshell [sic] River,--and down the Musselshell [sic] River to the place of beginning (Kappler 1904: 595)

A second treaty was established with the Pikuni and other Indian Nations in 1855. This treaty was held at the mouth of the Judith River and designated a common hunting ground to be shared by the attending nations. Such land was designated from west of the head waters of the Musselshell River to the foothills of the Rocky Mountains.

1855-1860

According to one elder Pikuni, many of the Pikuni chiefs
had camped along the Teton River just prior to signing the 1855 Treaty (McClintock 1923: 331). Elk Horn’s account may be in agreement in stating that some Pikuni camped south of the Missouri River in 1855 (Wissler 1909: 45-47). In the same year, Three Suns indicates that sixty lodges were camped in the Sweet Grass Hills region (Schultz 1962: 264-270).

The following year many of the Pikuni traded at Fort Benton. Some of the Pikuni were camped on Shonkin Creek (Box Elder Creek) (Schultz 1962: 323). Elk Horn reports that the Pikuni camped at "Bad Waters" north of the Missouri River (Wissler 1909: 45-47); and Big Brave may be in concurrence as he remembers the Pikuni camped on the Marias River (Wissler 1912: 48-50). Elk Horn recalls that in 1857, Mountain Chief (a significant leader among the Pikuni) camped along the Marias River and then hunted north of the Sweet Grass Hills (Wissler 1909: 45-47).

In 1858, the Pikuni summered along the Two Medicine River, then left the Two Medicine River to hunt along the Marias River near the confluence of Dry Creek. They then traded at Fort Benton and camped along Arrow Creek in the autumn. After moving briefly to camp along the Judith River, the Pikuni moved to the Musselshell River for the Winter (Schultz 1962: 201-204). In the same year, Three Suns recalls some of the Pikuni as having camped along the Milk River near the present town of Chinook (Schultz 1962: 264-270).

Three Suns further indicates that in 1859 some Pikuni
camped on Badger Creek (Schultz 1962: 264-270). Other Pikuni were camped along the Milk River (Schultz 1962: 290).

1860’s

In the spring of 1861, the Heavy Runner band moved to the Two Medicine Valley near the mountains to cut lodge poles. They remained there during part of the summer to hunt, then moved near the Sweet Grass Hills in late summer to hunt further. In the fall, they returned to the Two Medicine Valley (Schultz 1962: 296).

In the summer of 1863, the Pikuni traded at Fort Benton, then moved to the Teton River near Priest Butte (Red Old Man’s Butte) in the fall (Schultz 1962: 274). In this year the Pikuni held a Sun Dance in the Cypress Hills area (Schultz 1962: 275), indicating that much of the summer was spent there. However, Mountain Chief’s band reportedly camped south of the Missouri River in 1863 (Wissler 1912: 48-50).

Three Suns indicates that in the next year (1867) some Pikuni camped in the Cypress Hills region (Schultz 1962: 264-270), while according to Agent George Wright of the Montana Superintendency, some Pikuni camped near the confluence of the Marias and Missouri Rivers (Annual Report to the Commissioner of Indian Affairs 1867). Two years later (1869), many Pikuni chiefs reportedly wintered on the Teton River (Chittendon 1905 vol.4: 1589).

1870’s

In late summer and early autumn of 1869, the Heavy Runner
band hunted along the Judith River and then moved to the Two Medicine River in late autumn. Early in the winter of 1869-70, Mountain Chief's band moved from the Marias River north into Canada.\(^\text{13}\) After Mountain Chief's band had left for Canada, the Heavy Runner band moved to the Marias River and camped where Mountain Chief's band had been just days earlier.

During the winter of 1870 the United States Army attacked and massacred the Heavy Runner band on the Marias River. Later that year, a Sun Dance was held on the Teton River near Four Person's Butte where the Pikuni spent the better part of the summer (Schultz 1962: 275, 298).

In 1872, a small party of Pikuni stole horses from the Crow near the Sweet Grass Hills. The Crow tracked the Pikuni back to their camp at Heart Butte and killed three of them (Schultz 1962: 373).

A large group of Pikuni camped near the Cypress hills in 1875 (Schultz 1962: 264-270). The following year some Pikuni camped in the Two Medicine Valley (Wissler 1909: 45-47), and a new Agency was constructed along Badger Creek (Annual Report to the Commissioner of Indian Affairs 1875).

In the spring of 1877, several hundred lodges of Pikuni camped around Fort Benton (Schultz 1973: 8). Later in the summer, the Small Robes band camped on Arrow Creek near the Big Belt Mountains, then along Warm Spring Creek, and the

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\(^\text{13}\) This reference coincides with an account from Three Suns indicating that some Piegan camped near the Cypress Hills in 1870 (Schultz 1962: 264-270).

The winter of 1878 found a large camp of Pikuni, Kainah and Siksikah camped along the Marias River near the mouth of Dry Creek to trade at the newly established Fort Conrad. The Pikuni then moved to hunt along the Rockies near the Agency on Badger Creek (Schultz 1962: 4 and Schultz 1973: 60). Additionally, Ewers reports that the Running Crane band camped along Badger Creek (Ewers 1958: 281-282).

President Grant issued an executive order in 1874 that reduced the Blackfeet Reservation and designated the southern border only as far south as the Sun River. Under great pressure from the Montana cattlemen’s lobby and their politician cohorts, Congress had soon after passed a new act moving the southern boundary further north to Birch Creek (Wessel 1975: 35-36).

According to Elk Horn, in 1878, some of the Pikuni moved south to hunt Buffalo in the southern portion of their reservation as it had been established in 1855 (Wissler 1909: 45-47). They were subsequently ordered to return to their Agency on Badger Creek. In 1879, some of the Pikuni were again forcibly returned to their reservation when they attempted to hunt south of Birch Creek (Wissler 1909: 45-47).

1880’s

In 1880, the Small Robes band reportedly wintered on the
Musselshell River to hunt buffalo, then joined a large camp on the Teton River near Kipp’s Trading Post (Schultz 1962: 213). Other Pikuni wintered on the Judith River near Sage Creek (Schultz 1962: 27-28).

Three Suns reports that in 1881, many Pikuni wintered on the Judith River (Schultz 1962:264-270). The same is affirmed by another elderly informant relating to James Willard Schultz (Schultz 1962: 212). In attempting to accommodate the desires of the United States, the Grease Melters band of the Pikuni temporarily established a small farming community along the Two Medicine River. However, they were driven out of this area due to frequent raids from the Cree (Deaver 1988: 9).

By 1882, the buffalo herds had dwindled so significantly that many Pikuni did not bother to hunt in search of them. At year’s end, most Pikuni bands had settled along Badger Creek (Schultz 1962: 66). Agent Young reported that 2,126 Indians were camped near the Agency (Annual Report to the Commissioner of Indian Affairs 1882).

During the year 1883, White Calf, Three Suns, and Little Dog had gathered all of their respective bands to camp along Badger Creek near the Agency in hopes of providing their people with the best environment possible in fulfilling their needs. In part, this would require procuring goods from the Agency nearby. Red Paint had also brought his band to camp along Birch Creek a short distance to the south (Schultz 1962
By the mid-1880's nearly all the Pikuni bands were camped along Badger and Birch Creeks in the southwest corner of their reservation. They would all remain in this general location for at least one decade, and many continue to live along these creeks in small settlements. In her report entitled "Blackfeet Use of the Badger Two-Medicine," Sherri Deaver outlines more precisely where each band lived.

1. The Black Door Band settled furthest west along the Badger, near present day Heart-Butte-Browning Station road.

2. The Lone Eaters lived downstream near Running Crane’s Agency. They were there prior to the establishment of the Running Crane Agency.

3. On the north side of the creek from the Lone Eaters was a mixed group of families under the leadership of Big Plume.

4. The next band downstream was the Grease Melters, and just below them was the Black Patched Moccasin band under Little Dog.

Although most writers have described the Pikuni as practicably and morally dependent upon the United States by the mid-1880’s, the gathering of the Pikuni nearby the Agency on Badger Creek may be alternatively viewed as incorporating a measure of cultural resistance. That is to say, although the Pikuni were increasingly dependent upon the United States in purely practical terms, there is little indication that the Pikuni had wholly abandoned those cultural precepts that had formed their identity as a people.

While the Agency was intended to afford the Pikuni with the basic necessities of life, the proximity of the Agency to the mountains in the west, and the landscape of the foothills region may have provided the "best possible environment" for the opportunity to maintain their traditional culture within a highly restrictive practical circumstance.
5. Near the Old Agency, the Small Robes band, now in the process of breaking up into smaller family groups, made their home.

6. The Buffalo Dung band was just east of Kipp's Trading Post. Near this band, some older members of the Black Patched Moccasin band; and just below them lived another group from the Buffalo Dung Band.\textsuperscript{15}

7. The eastern most group along Badger Creek was a small band, the surviving members of the old Bugs Band (Deaver 1988:5-9).

All the other bands lived along Birch Creek to the south. These groups included the Blood band, under Chief Fast Buffalo Horse, the All Chiefs band under Chief Horn, and the Skunks band under Head Chief White Calf (Ewers 1974: 131-134).

**ANALYSIS OF TENURE; LOCATION AND ECOLOGICAL FACTORS**

Throughout the historic period, the Pikuni people clearly maintained their well established geographic and presumably cultural relationship with the Rocky Mountain Front and plains region. As is evidenced by the plethora of site locales identified by one or more water bodies, this relationship was directly influenced by the availability of adequate surface water supplies. However, further analysis of the above site references, while bearing in mind the functioning premises of the Pikuni world view, will provide greater insight to this

\textsuperscript{15} On the flat just south of this band was the location of the first Sun Dance to use cattle tongues instead of buffalo tongues.
relationship.

The above references included approximately 141 references to identifiable locations at which the Pikuni are known to have been involved with a number of activities. Such activities included Sun Dances, hunting, camping, or more likely, some combination of these and other activities. Of the 141 locational references, 87 percent (122) referenced one or more bodies of water (usually rivers) to describe where the Pikuni had carried out some memorable activity. Of these 87 percent (122), 78 percent (95) included specific references to water when indicating where the Pikuni had camped and hunted, while 22 percent (27) mentioned some water body for other purposes. All other references that did not include some reference to a particular water body amounted to 13 percent (19) of the sum total of 141 references.

It is apparent (and not surprising) through even the most cursory of statistical presentations, that the Pikuni often lived in close proximity to the water sources (water medicine power) provided in the landscape. One may therefore reasonably assume that the Pikuni considered the water and associated medicine powers of the landscape to be important factors contributing to tribal welfare. Furthermore, given the varying character in which water bodies were referenced, it is clear that water was not only important in the choice of camping locations, but as a means of reference when indicating travel movements, and in more general references to geographic
locations (eg. "camped south of the Missouri River").

In her report entitled "An Ecological Study of the Northern Plains as seen through the Garrett Site," Grace R. Morgan worked in part toward defining some basic factors influencing where early inhabitants of the Northern Plains would have chosen to camp during certain seasons. Of notable significance is the choice of wintering locations. In most cases, early inhabitants were least mobile during the harsh winters known to this area.

Factors influencing the selection of the Valley Complex as a preferential winter camp are multiple; adequate water supplies, alternate food resources, shelter, the availability of wood, and of greatest importance, the abundance of bison (Morgan 1979: 180). (emphasis added)

The aridity of the landscape created a seasonal relationship with the Pikuni in which most water sources provided to the Nation were related to seasonal snow melt from nearby mountainous areas, or short lived rainy periods more common near mountainous areas. Given the preceding statistical presentation, this fluctuating availability of water suggests that seasonal movements of the Pikuni people may have been directly affected by the availability of adequate water sources (strong water medicine power) both for the Pikuni themselves, and the many other medicine powers associated with water medicine power.

ASSOCIATED MEDICINE POWERS

In the southern Saskatchewan, and northcentral Montana plains region, the annual precipitation averages 16.2 inches
(Morgan 1991: 20). However, the vast majority of this is in the form of snow from November through April in Saskatchewan and during a shorter period (November - March.) in Montana. Clearly, the northern Rocky Mountain Front region is fairly arid.

It is fair to assume that the climatological condition of at least the proto-historic period if not the late pre-historic period was similar to the present day. That is, water medicine power has most likely been scarcely provided relative to the greater abundance of the many other medicine powers (eg. white tail deer or buffalo).

However, the high degree of interaction between the many other medicine powers and water medicine, coupled with the obvious dependence of the Pikuni upon water medicine power, accorded water medicine power a priority status within the Pikuni world view. Considering the importance of maintaining a positive relationship with the many medicine powers, it is difficult to overstate the imperative of maintaining a positive relationship with water medicine power.

For instance, it is well known that the buffalo of the northern plains provided the Pikuni with much of their means of survival. However, like the Pikuni, it is clear that such herds were dependent upon the limited water medicine of the landscape as well. Although buffalo may drink or wallow in waters of varying quality, one may generally assume that in providing the opportunity for the buffalo to continue their
role within the landscape, water medicine power in effect indirectly allowed the Pikuni to continue their relationship with the buffalo.\textsuperscript{16}

Thus, in partial deference to Morgan's earlier assertion of the "paramount" importance of buffalo in Pikuni life, the significance of water medicine power in Pikuni life may be reasonably considered tantamount to the existence of large nearby buffalo herds. A keen understanding of the relationship between the buffalo medicine and water medicine powers, coupled with an expressed reverence of such powers allowed Pikuni hunters greater success in providing for their people.

The act of hunting was directly related to knowledge of the waters within the landscape. Often times, hunting parties were gone from their main camp for many days requiring fresh water supplies. When buffalo where scarce, the Pikuni often hunted alternative game animals, most of whom were found within riparian zones, near fresh water sources (Ewers 1958: 72). Under such circumstances, water medicine power factored quite significantly in Pikuni life, both directly and indirectly.

In other words, Pikuni hunters were by necessity quite familiar with the location of water medicine power provided in their landscape. This was especially meaningful during the

\textsuperscript{16} Other medicine powers such as deer, antelope, and elk were well known to exist primarily near water sources as such riparian areas provided them with plentiful browsing opportunity among the medicine powers of the wetland vegetation. Such was the power of the water medicine.
frequent drought cycles known to the Pikuni (Morgan 1991: 63).

The [Pikuni] had knowledge of the locations of all running streams, clear lakes, and springs in and near their hunting grounds that afforded clean drinking water for themselves and their dogs (Ewers 1955: 40).

As indicated above, hunting did provide for much of the Pikuni people's needs. However, the Pikuni people (particularly Pikuni women) were also extremely knowledgeable in gathering various roots, berries, flowers, plants, and other forms of vegetation that were used for specific purposes, and often under specific circumstances. Many of these elements were relied upon to fulfill medicinal, ceremonial, and subsistence (dietary) needs. The following brief statistical presentation was computed by drawing from two extensively recorded inventories of those landscape elements gathered by the Pikuni.

DEFINITIONS

OBL- (obligate wetland) OCCURRENCE IN WETLAND/RIPARIAN AREA 99%
FACW-(facultative mostly wetland) OCCURRENCE IN WETLAND 67-99%
FAC- (facultative either wetland/non-wetland) OCCURRENCE IN WETLAND 33-66%
FACU-(facultative mostly upland/non-wetland) OCCURRENCE IN WETLAND 1-33%
O- (other/obligate non-wetland) OCCURRENCE IN WETLAND 0%

See Hellson, J.C. and M. Gadd; and Johnston, A.

These definitions are drawn from the: "National List of Plant Species that occur in Wetlands: Northwest (Region 9)." United States Fish and Wildlife Service, Dept, of Interior; Report 88(26.9), 1988.
ELEMENTS GATHERED BY PIKUNI (general)

OBL-5%, FACW-20%, FAC-26%, FACU-23%, O- 26%

A coarse review of those vegetative medicine powers gathered by the Pikuni shows 74% occur at least in part in wetland areas. However, only one-half (51%) may potentially occur in wetland areas at least 50 percent of the time.

Although such percentages do not at first appear to indicate an orientation toward wetland vegetative medicine powers, it is important to examine more closely the relationship and frequency of water medicine power relative to the surrounding landscape of the Pikuni.

To date, there has yet to be a completed site specific inventory of the wetland areas along the northern Rocky Mountain Front of Montana (the longstanding landscape of the Pikuni people). However, scientists in the Soil Conservation Service in Browning, Montana have estimated that only 7% of the northern Rocky Mountain Front landscape is associated with wetland areas.

It is important to state that this figure should not be viewed as more than a rough estimate as it does not distinguish between differing types of wetlands. Furthermore, of those medicine powers gathered by the Pikuni in wetland areas, some may be provided within one type of wetland

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19 The term "wetland", as used here, includes lakeside wetlands, marsh areas, and riparian zones.

20 Written communication from the Soil Conservation Service (SCS); Browning, Montana; 12/7/1993
exclusively, or may be provided more often in one over another. With limited information sources available, such distinguishing data is currently unattainable.

Yet, despite the unrefined quality of the data, there are still some generally viable assertions to be made. With 7% of the landscape containing almost 50% of those medicine powers provided to the Pikuni through gathering, it may be reasonably asserted that such areas embodied concentrated centers of great importance (medicine power) to the Pikuni people. That is, the value associated with wetland areas was quite significant in that so many needed medicine powers were provided in such concentrated locations\textsuperscript{21}.

The fact that wetland areas comprise approximately 7% of the total landscape is especially enlightening when taken in reference to the locale of Pikuni campsites as earlier described. When one considers that the Pikuni most often chose to camp along streams or rivers (wetland areas), it is apparent that the Pikuni actively sought out such areas, being as they comprised such a small percentage of the surrounding landscape. Over time, it is reasonable to assume that such locales became well known to the Pikuni and were visited year after year for specific gathering and hunting purposes.

\textsuperscript{21} Admittedly, the bio-diversity characteristics of the Pikuni landscape are not unusual. That is, most vegetative diversity may be found near water sources regardless of what landscape one may examine. However, this fact does not in any way diminish the value of wetland areas in Pikuni life particularly.
CONCLUSION REGARDING HISTORY AND LAND TENURE

The availability of adequate campsite locales, successful hunting, and the gathering of needed vegetative medicine powers, all necessitated a strong reverence for water medicine power within Pikuni daily and ceremonial life. Moreover, it is clear that water medicine was the crucial limiting factor for all other medicine powers within the surrounding landscape. Recognizing this fact, it is reasonable to claim that the value of water medicine power was not distinct from other highly valued medicine powers, but rather a necessary function of their existence (ie. buffalo, beaver)\textsuperscript{22}.

\textsuperscript{22} The role of beaver in the creation of suitable camping locations and in other facets of Pikuni life will be discussed in a separate chapter. The beaver was extremely important to the Pikuni and thus deserves more attention than can be given here.
Chapter 3

THE ROLE OF WATER WITHIN THE PIKUNI WORLD VIEW

Within all cultural perspective there are associated fundamental beliefs which pervade the daily life of the members of that society. Recognizing the many unique cultural understandings of the world, James Irving Hallowell has written the following:

Human beings in whatever culture are provided with cognitive orientation in a cosmos; there is "order" and "reason" rather than chaos. There are basic premises and principles implied, even if these do not happen to be consciously formulated and articulated by the people themselves (Hallowell 1976: 358).

Hallowell later suggests that although this statement may appear to reduce all cultural perception to merely a rationale for understanding the world, this does not deny the "reality" of such understandings within a particular culture.

Hallowell implicitly suggests here that all realities, past and present, are in fact relative to the culture in which they are created. That is, there are no objective truths known through one cultural perception and not another. Judgement, in cross-cultural studies, must therefore be reserved in the name of understanding.

Differing greatly from the predominant Western conception of one temporarily leaving civilization in order to appropriate resources from the natural environment, the interaction of the Pikuni with the many medicine powers of the surrounding landscape was regarded by the Pikuni as fulfilling
their appropriate role in relation to the functioning landscape itself. Likewise, the manifestation of the many medicine powers within the surrounding landscape was the counterpart of a reciprocal relationship in which the way of the landscape was maintained.

Water, as one of the many medicine powers of the landscape, held great importance within Pikuni culture. A significant indication of this fact may be found in the role of water medicine and associated medicine powers within those accounts of Pikuni oral history recorded in the late nineteenth century.

That is to say, for countless generations, elder Pikuni people have orally transmitted their accumulated knowledge and experiences, often involving the many medicine powers of the surrounding landscape. This oral tradition has served a function of continuity within Pikuni culture. In knowing their past, each new generation established its identity as Pikuni people in the present day.

However, the circumstances of the present generation are never quite the same as the previous one, necessitating adaptation and change. It is reasonable to assume that such changes affected Pikuni oral tradition similar to changes in other aspects of Pikuni culture. As Jan Vansina writes in her book entitled *Oral Tradition: A Study in Historical Methodology*:

It cannot be sufficiently stressed that, in the last analysis, every tradition exists as such only
in virtue of the fact that it serves the interests of the society in which it is preserved, whether it does so directly, or indirectly by serving the interests of the informant. Its significance in relation to society is what I call its function.

Vansina later writes:

Let me add as a general remark that all social functions can be reduced to two main functions: that of adaptation of the society to its environment, and that of permanently maintaining the social structure. (Vansina 1961: 78)

Throughout the nineteenth century, Euro-American society increasingly imposed its values upon Pikuni people. When the Pikuni resisted such impositions, they were often summarily defeated through the overwhelming and multi-faceted might of the Euro-American society. By the 1880's, the economic mainstay, the buffalo, of the Pikuni people had all but vanished from the northern plains and the Rocky Mountain Front region.

Although the United States government often promised subsistence provisions of adequate quantity and quality to the Pikuni people, such promises were rarely, if ever carried through. The daily condition in which the Pikuni were forced to live gradually degraded to one of desperation in most all aspects of Pikuni life.

Given the profound impact of Euro-American society upon the cultural circumstances of the Pikuni, it is reasonable to assume that much of recorded Pikuni oral history was affected to some degree by such interactions with Euro-American society and its values. Yet, despite such profound changes in their
daily circumstances, Pikuni elders continued to exhibit great respect for the many medicine powers and cultural heroes of their world.

In many of the recorded oral histories of the late nineteenth century, water medicine power, and associated medicine powers maintain their roles as helper and healer of the Pikuni people. More specifically, the cultural value of water, the relationship of human to water and all associated powers had yet to be broken, even in the last decade of the nineteenth century. This fact, as indicated through recorded oral accounts, is a testimony to the continued resistance of the Pikuni people in direct defiance of the external assimilative forces and the dire circumstances rendered them by the Euro-American society.

The connection between cultural values and the purposes and functions of traditions is so close that these two aspects could have been discussed in the same section....The influence exerted by the cultural values is an underlying one, less obvious than that of the purposes or even the functions of a tradition. It is an unconscious influence which does not affect details or parts of testimony, but which permeates the traditions as a whole. (Vansina 1961: 96)

Although there are numerous late nineteenth century recordings indicating a steadfast reverence of water medicine power within the Pikuni world view, I have chosen but a few representative examples which help to encapsulate the meaning of water medicine power. However, it is important to remember that the Pikuni world view does not wholly separate a given power from its relationship with other powers and, or, its
relationship to the Pikuni. Thus water medicine may appear only briefly within a given oral account of some happening, yet may represent a principal factor in the outcome of the happening recounted.

For instance, it was recorded that Mik-A’Pi, a Pikuni man living long ago, was to go to war with the Snake Indians\(^23\) to avenge the death of his friend Fox-eye. Others wished to join him in his quest but he refused to let them come with him. Prior to leaving camp, Mik-A’Pi built a sweat lodge. He then did a "medicine sweat" during which he asked for strength in his journey to avenge the death of his friend.

Water medicine power was used in the sweat lodge to purify the people in the lodge, in this case Mik-A’Pi. In asking for help from the many medicine powers, it was extremely important one purify one’s self. The many medicine powers were far more likely to hear the calling of the individual once he had been purified in such a manner. With the help of a medicine power, the individual was often more likely to have success in whatever he sought.

In the case of Mik-A’Pi, he was soon to be granted the grizzly bear medicine power. During his travels, Mik-A’Pi had avenged the death of his friend but had been wounded by a Snake. A grizzly bear came to him and helped him to heal his wound.

\(^{23}\) According to Brian Reeves, an Archeologist working in Calgary, Alberta, the term "Snake" was a generic term used to describe an enemy of the Pikuni (Lecture by Reeves Feb. 26, 1994).
When [the grizzly bear] had said this, he lifted Mik-A’Pi and carried him to a place of thick mud; and here he took great handfuls\textsuperscript{24} of the mud and plastered the wounds, and he sung a medicine song while putting on the mud (Grinnell 1962: 68).

The grizzly bear then promised Mik-A’Pi that he would help him in his life and gave Mik-A’Pi some food to eat. He then showed Mik-A’Pi the path to his people (Grinnell 1962: 61-69).

Had Mik-A’Pi not been purified through the sweat lodge, he may not have been granted the grizzly bear medicine power. The sweat lodge (and consequently the use of water medicine power in purification) was often an essential portion of the process in achieving success.

By far the grandest ceremony of the Pikuni people was the annual Sun Dance (Okan). In researching the culture of the Pikuni people early in this century, Clark Wissler wrote the following.

In short the Sun Dance was for the [Pikuni] a true tribal festival, or demonstration of ceremonial functions in which practically every important ritual owner and organization had a place. Nevertheless, there were certain rituals peculiar to it which gave it its character (Wissler 1918).

Yet the ceremonial aspect of the Okan was in fact the manifestation of the greatest power of all, the Sun, within the lives of the Pikuni. It is the bringing of the past into the present through ritual and protocol. In so doing, the Pikuni actively ensured a constant renewal of life in the coming year. The Sun’s power was unsurpassed in power and

\textsuperscript{24} The bear’s paws are called o-kits-its, the term also used for a person’s hands.
prestige. All other medicine powers depended upon Sun medicine power. Scarface, a cultural hero of the Pikuni, was the first to learn how the Pikuni could ensure a healthy relationship with Sun medicine power.\footnote{As will be shown, in acquiring the knowledge of expressing reverence for the Sun’s power, and hence providing the Pikuni with the means to ensure their continued survival and well being, Scarface was elevated to the status of hero within Pikuni culture. Ergo, he is known as a cultural hero.}

Scarface had been outcast by his people. He was quite poor and had a bad scar on his face, the object of constant ridicule from his peers. His love for a particular woman eventually drove him from camp to seek the home of the Sun, for the woman he loved had been told by the Sun never to marry another. Scarface was terrified of the Sun’s power but he searched out his home in order to ask that he may have the women in marriage.

Upon finding the Sun’s home, Scarface stayed for a while. During this time he saved the life of the Sun’s son (Morning Star). In gratitude, the Sun allowed the man to marry the woman down in the village. However, the Sun gave the man specific instructions for expressing reverence of the Sun’s power. In this way, the Pikuni were to maintain a positive relationship with the Sun medicine power.

Although there are many aspects of the Okan, it is significant that an integral portion of the ceremony involved the construction and use of four sweat lodges. On four successive days, the whole of the Pikuni people moved to a new
site, at which a new sweat lodge of one hundred willows was
built.

It was usually male relatives of the "medicine woman"
and/or persons with special medicine powers who took "medicine
baths" as part the necessary expression of reverence for the
Sun medicine power. On the fifth day, the day of the medicine
lodge construction, the sweat lodge of the previous day was
again used by these men and boys.\(^26\)

First Day- A society brings in willows and a
hundred-willow sweathouse is built.

Second day- A sweathouse is made, as on the
previous day.

Third day- The same as the second day.

Fourth day- In the afternoon, the fourth and
last hundred-willow sweathouse is built and used.

Fifth day- The medicine woman then returns to
her tipi and the father with his male companions
goes into the sweathouse (Wissler 1918).

Clearly, water medicine power was an integral part of the
Okan, and thus an essential component in sustaining Pikuni
welfare.

These two instances in which water medicine power played
a role in the oral tradition of the Pikuni are representative
of the manner in which water medicine power often existed in
Pikuni oral tradition. The purification power of water
medicine is directly associated with the Pikuni relation to

\(^26\) The sweat lodge ceremony involved the use of water medicine
power as it was splashed upon the heated rocks piled in the center
of the lodge. The steam created was the medium through which the
members of the sweat lodge were purified.
water medicine power as it appears in the landscape. It is important to note that the role of the oral tradition was often manifested in the activities of the present day (i.e. Okan). In this way, the past was brought into the present and was thus an integral part of Pikuni daily life.

There were certainly many accommodations necessary for the continued cultural survival of the Pikuni under the force of the United States. However, in that these and many other oral accounts were recorded in the last decade of the nineteenth century, it is clear that the Pikuni world view as a whole may not have been altered to the extent many have presupposed.

That is to say, although there were great changes in the daily circumstances of the Pikuni, there were still many medicine powers among them. In that the Pikuni had not been removed completely from their aboriginal landscape, much of their world view remained largely uncontested despite other external conditions. Such were the circumstances of the Pikuni in the late nineteenth century.

UNDER WATER PERSON

The water medicine power of the surrounding landscape, like all other medicine powers, was not defined as a sole entity but rather only through its relation to other medicine powers, including the Pikuni people. That is to say, water medicine power was contextual by its very definition. What made it significant was what it did, its function or role in
the landscape as that was related within the greater realm of the Pikuni world view. The "strength" of a given medicine power was therefore in constant flux, maintaining only generally ascribed degrees of strength at any given moment. In effect, the "strength" of water medicine power, by definition, might have "flowed" from its originating source to another, or could have itself been joined temporarily by another, depending upon the contextual relationship of the two medicine powers.

In other words, let us suppose there are only two medicine powers, one of which is water medicine power, interacting at a given time and place. In the relationship between the two medicine powers, there is the potential for power (strength) to flow in one of two directions, depending upon the character of the given situation. Such conditions presented a multitude of unilateral paths through which power could have flowed at any given moment depending upon the role of that medicine power interacting with water medicine power.

In the first case, some medicine powers associated with the existence of water medicine power defined the strength of water medicine power through their own role in Pikuni livelihood. For example, when a Pikuni woman gathered a medicine root found primarily in wetland areas, she was in fact interacting with one of many medicine powers provided through the presence of the water medicine power in the area.

The strength of the water medicine power was here
associated with the strength of the medicine root gathered. The water medicine power was not defined as an entity apart from that of the gathered root, but rather through its having provided the opportunity for the root medicine power to exist for the gathering.

In the second case, there were many medicine powers whose strength was by definition the result of their interaction with water medicine power. That is to say some medicine powers were strong in Pikuni life only in so far as their role or function within the landscape was related to water medicine power.

There is perhaps no greater example of such a medicine power associated with water medicine than the Under Water Person (Beaver). The beaver was revered by the Pikuni for his role within the landscape and thus the universe of medicine power at large (Morgan 1991: 61). However, before discussing further why the Under Water Person was so greatly revered, it is important to provide more substantial indication that such reverence was indeed the case.

**AVERSION TO BEAVER TRAPPING**

The reverence of the Under Water Person was expressed in historic times through an aversion to beaver trapping by the Pikuni and closely related Nations. If the traders anticipated a rich harvest of beaver in the Blackfeet trade they were soon disillusioned. There were plenty of beaver in the creeks and rivers. A good hunter could have killed a hundred of them a month with his bow and arrows...the Blackfeet were generally not beaver
hunters (Ewers 1958: 32).

In the latter half of the eighteenth century, a number of representatives of the Hudson’s Bay Company, and the Northwest Trading Company were sent to induce the Blackfeet to trade beaver pelts with them. Beaver pelts were some of the most highly prized furs of the time period and the Blackfeet would have surely prospered in trade with the English and Americans.

Yet aside from a small band of Pikuni that lived almost exclusively in the foothills of the Rockies, virtually none of the Blackfeet agreed to trap beaver for the traders. Such was their contempt for the whole idea that it soon became quite dangerous for many trappers to even venture into Blackfeet territory at all. During his stay with the Pikuni (1787-1812), David Thompson, a representative with the Hudson Bay Company, reported nearly three hundred and fifty European trappers killed by the Pikuni when trapping beaver (Glover 1962: 392).

There were very limited numbers of beaver killed by the Blackfeet, but such numbers were inconsequential compared with the enormous quantity taken from the northwest by the fur trade industry.

Similarly, as observed by Harris for the sacred cow, the prohibition does not appear to be absolute or it can be circumvented. Lancaster notes that: On occasion the [Blackfeet] would take the Pelt of an Under Water Person for employment in religious ritual, but they did not trap beaver on a commercial basis (Lancaster 1966: 188).

Indicative of a world view in which all interactions with the many medicine powers are personalized, the Blackfeet were
not adverse to trading stolen furs once the beaver had been trapped and killed by someone else. That is to say, provided an understanding of the personalized nature of the Pikuni world view, one may reasonably deduce that it was the act of trapping and killing the beaver that offended the beaver medicine power, not the actions taken thereafter in trade.

The Pikuni were thus able to steal and trade beaver pelts without themselves offending the beaver medicine power. They were in fact making the best of a situation not of their asking but quickly becoming a great deal of their reality. Such was the pragmatism of the Pikuni people.

The trade with the [Blackfeet] is of very little consequence to us. They kill scarcely any good furs; a beaver of their own hurt is seldom found among them... (Coues 1897: 541).

Other statements provide a more telling situation.

Last year, it is true, we got some beaver from them; but it was the spoils of war. They had fallen upon a party of Americans on the Missouri, stripped them of everything and brought off a quantity of skins (Coues 1897: 541).

Furthermore, the Blackfeet resisted attempts to build or establish any trading post in their territory. In 1802, the entire Chesterfield House and Bow Fort near present day Calgary had to be abandoned due to attacks from the Blackfeet. It was not until 1831 that Americans succeeded in establishing a trade post in Pikuni territory (Ewers 1958: 392). Fort Piegan was built between the Marias and Missouri Rivers with the provision that the [Pikuni] bring all their furs to the Fort for trade.
Fort Piegan mysteriously burned down only a year later. Yet other forts including Fort McKenzie were soon built and trade from within Pikuni territory was finally secured.

The circumstances of the Pikuni had changed dramatically over the previous fifty years. They were now dependent upon the Euro-Americans for weapons and other articles in order to maintain security in the face of hostile nations to the west and south.

Thus, under enormous pressure from trading companies, the Pikuni trapped and traded some beaver during this time. Their actions gave rise to tensions and hostility from the Kainah and Siksikah Nations to the north. Fort McKenzie was more than once attacked by the Kainah or Siksikah while the Pikuni were trading there.

It is important to note, however, that by the 1830’s trade had largely turned toward buffalo robes and away from beaver pelts. The Hudson Bay and Northwest Companies had greatly diminished the beaver populations despite the protests and resistance from the Pikuni and other indigenous nations (Morgan 1991: 228-233). Beaver medicine power had already been driven from much of its former landscape. Yet, despite this fact, beaver medicine power remained an important "ideological dimension of plains ecology" (Morgan 1991: 233).

**ORAL RELATION OF THE UNDER WATER PERSON**

Oral accounts recorded in the late nineteenth century present additional compelling evidence that beaver medicine
power was very strong in Pikuni life. That is, Under Water Person remained a large part of the oral tradition relayed to each new generation by elders of the Pikuni even in the late nineteenth century.

The following oral accounts do not begin to approach the magnitude in which the Under Water Person was a part of Pikuni life through the oral tradition. Like earlier oral accounts concerning water medicine power directly, the accounts of Under Water Person included here are intended to be a representative sample, rather than a complete review of Pikuni oral tradition in relation to Under Water Person.

In the story of Bull Turns Round, Wolf Tail, the older brother of Bull Turns Round, was told by his wife that Bull Turns Round had been beating her. Although Bull Turns Round was in fact innocent, Wolf Tail tricked Bull Turns Round into climbing a tree for eagle feathers in order to kill him. In doing so, Wolf Tail pushed the tree over and off a cliff. Bull Turns Round fell into a river and was left for dead by his brother.

However, a short way down river was Suy-ye-tup-pi, the Under Water Person.

This old man [beaver] was very rich: he had great flocks of geese, swans, ducks, and other water-fowl, and a big herd of buffalo which were tame. These buffalo always fed near by, and the old man called them every evening to drink (Grinnell 1962: 25).

27 The Under Water People had great influence with the Buffalo Medicine Power.
On that day the two daughters of the old man were swimming in the river and noticed Bull Turns Round lying on a shoal, dead. They told their father about the man and asked him to bring the man to life again. Upon their request, the old man asked them to build four sweat lodges.

He went and got Bull Turns Round, and when the sweat lodges were finished, the old man took him into one of them, and when he sprinkled water on the hot rocks, he scraped a great quantity of sand off Bull Turns Round. Then he took him to another lodge and did the same thing, and when he had taken him into the fourth sweat lodge and scraped all the sand off him, Bull Turns Round came to life, and the old man led him out and gave him to his daughters. The old man then gave his new son-in-law a new lodge and bows and arrows, and many good presents (Grinnell 1962: 26).

Through the water medicine power of the sweat lodge, the Under Water Person was very powerful. Such was clearly shown in his ability to give new life to Bull Turns Round. Yet the Under Water People was also capable of rendering death to those upon whom they chose to inflict their strength.

When the old man learned of how Bull Turns Round had been killed by his brother because of a lie from his brother’s wife, he instructed Bull Turns Round in how to kill his brother.
'Take this piece of sinew', said the old man. 'Go and see your father. When you throw this sinew on the fire, your brother and his wife will roll, and twist up and die'. Then the old man gave him a herd of buffalo, and many dogs to pack the lodge, and other things; and Bull Turns Round took his wives, and went to find his father (Grinnell 1962: 27)......

Now the people were starving, and some had died, for they had no buffalo. In the morning, early, a man arose whose son had starved to death, and when he went out and saw this lodge on top of the hill, and all the buffalo feeding by it, he cried out in a loud voice; and the people all came out.....

Then Bull Turns Round told his father all that had happened to him; and when he learned that his people were starving, he filled his mouth with feathers and blew them out, and the buffalo ran off in every direction, and he said to the people, 'There is food, go and chase it' (Grinnell 1962: 27-28).

Other instances in which the Under Water Person is recognized include the account of the origin of the I-Kun-Uh-Kah-Tsi, the order of different bands among the Pikuni, each with a special relationship to a given medicine power or powers. In the beginning of the I-Kun-Uh-Kah-Tsi, an old man took his pipe, and smoked and prayed, saying:

Hear now, Sun! Listen Above Person. **Listen Under Water Person.** Now you have taken pity. Now you have given us food....(Grinnell 1962: 109). (emphasis added)

The many medicine powers took pity on the old man and the Pikuni and allowed them to come to their lodges. In each

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28 The relationship of the beaver to the buffalo was prevalent throughout many accounts of Under Water Person. This relationship in oral accounting was directly related to the relationship of the Under Water Person and the buffalo medicine power in the surrounding landscape.
lodge, the many medicine powers taught some of the Pikuni the ways to call upon their power and to revere them through ceremony.

Each medicine power held certain articles in which their medicine was manifested through ceremony. Significantly, the badger medicine power in ceremony included a song, dance, and rattle, ornamented in part with beaver claws, indicating a strong power relationship between the beaver and the badger.29

Through the account of the I-Kun-Uh-Kah-ksi origin as outlined above, it is apparent that the Under Water Person was not only revered through prayer, but also through his inclusion in the ceremonies associated with other medicine powers (eg. badger medicine power).

**BEAVER MEDICINE**

From the very beginning, the Under Water Person has been a great helper of the Pikuni people. That is, as in the account of Bull Turns Round, the origin of beaver medicine is grounded in the distress of the Pikuni man, and the powerful generosity of the Under Water Person.

Beaver medicine is one of the oldest medicines known to the Pikuni people (Reeves 1994). Its origin precedes the time

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29 As discussed in Chapter 2, many of the Pikuni retreated to Badger creek in the late nineteenth century. They remained despite attempts by their many Indian Agents to bring them out away from the mountains. The power of the Badger medicine, and its relation to the powerful Under Water Person may have influenced the Pikuni locational choice.
when any indigenous nations went to war with each other. The account of how the Pikuni came to know beaver medicine power as it was known in the late nineteenth century began with a young man (Apikunni) who was quite poor and unable to gain the respect of his peers. Although he was in love with a young woman, and she with him, they could not marry as he had never counted coup.\(^{30}\)

In his despair, Apikunni decided to leave the camp. As he wandered away, he came to a lake, and at the foot of this lake was a beaver dam, and by the dam a beaver house. He walked out on the dam and onto the beaver house. There he stopped and sat down, and in his shame cried the rest of the day, and at last he fell asleep on the beaver house (Grinnell 1962: 119).

While the man slept, the beaver came to him and invited him into the house. Apikunni entered the house with the Under Water Person. The Under Water Person was all white and very old. During his stay with the beaver, Apikunni was taught many strange new things. This was in the fall.

Others back at camp began to miss Apikunni and soon his friend came looking for him. When Apikunni heard his friend passing, he called out that he was in the lodge of the Under Water Person. His friend then told him that some of the men were going on to war when the weather was warm enough.

Later, Apikunni told his "father" that he too would like to go with the others.

\(^{30}\) In those days the young men would travel many days to a strange camp. Once there, the leader of the group took a stick and touched the chief of the strange camp, thereby counting coup upon him.
[Under Water Person] then dived down into the water, and brought up a long stick of aspen wood, cut off from it a piece as long as a man’s arm, trimmed the twigs off it, and gave it to the young man. ‘Keep this’, the beaver said, ‘and when you go to war take it with you’. The beaver also gave him a little sack of medicine, and told him what he must do (Grinnell 1962: 121).

With the knowledge from the Under Water Person, Apikunni was able to go to war with the others. In doing so, he safely swam across a river and killed a member of the other camp. Apikunni became the first Pikuni to kill another in warfare and was thus considered very brave. Through the power of the Under Water Person Apikunni became a powerful chief. He soon married the woman he had loved and taught his people much about the beaver medicine power.

The Under Water Person gave the Pikuni people many gifts, including the Indian tobacco.

After a time, [Apikunni] called his people together in council and told them of the strange things the beaver had taught him, and the power that the beaver had given him. He said:

‘This will be a benefit to us while we are a people now, and afterward it will be handed down to our children, and if we follow the words of the beaver we will be lucky. This seed the beaver gave me, and told me to plant it every year. When we ask help from the beaver, we will smoke this plant.’

This plant was the Indian tobacco, and it is from the beaver that the [Pikuni] got it. Many strange things were taught this man by the beaver, which were handed down and are followed ‘til to-day (Grinnell 1962: 126-27).(emphasis added)

According to another account recorded by Curtis, there was once a Pikuni man who killed every kind of animal to obtain skins for his medicine bundle so that his medicine
would be powerful. One summer he camped near a stream that had a beaver dam. He immediately decided that he would kill the beaver and take his pelt to add to his medicine bundle.

However, the Under Water Person already knew what the man was up to. Out of revenge, the Under Water Person persuaded the man's wife to come and live with him in his lodge. The man became so unhappy that after a while the beaver gave the wife back to the man. He also gave the man his son whom the man's wife had born with the Under Water Person.

The Under Water Person required that the man treat his wife and son with kindness. For this, the Under Water Person would bring a gift to the man. The man accepted the requirements and the beaver gave him the gift of tobacco (Curtis 1970: Vol. 6: 70-71).

**BEAVER BUNDLE**

The gift of the beaver to the man in the above oral accounting requires an ongoing expression of reverence to the beaver medicine power. Certain articles as directed by beaver medicine power were held in a bundle by a chosen individual.\(^{31}\)

The Beaver Bundle was the first major bundle of the Blackfeet, and it is said that it is the largest and most complex ceremonial bundle ever assembled by any North American Tribe. As it developed, the bundle grew in size so that several horses were required to carry it and all its parts. The owner

\(^{31}\) In some instances, individuals could "buy" a bundle through trade. The new owner was then required to learn all of the beaver bundle ceremony and to carry out the appropriate ceremonial obligations.
of the Beaver Bundle is referred to as the Beaver Man or Beaver Woman.

From the Beaver Bundle came the ceremonies associated with the Tail Feathers Woman legend, Star Boy, and Scarface, which gave birth to the Okan ceremony, the Natoas, the Medicine Pipe, and many others. To put it simply, the all-encompassing rituals of the Beaver Bundle gave rise and inspiration to the whole expanse of the ceremonial life of the People [Pikuni]. Most songs, prayers, and facial paintings of other holy bundles of the Blackfeet can be traced to the Beaver Bundle (Scriver 1990: 212).

ECOLOGICAL FACTORS

In 1991, R. Grace Morgan finished her doctoral dissertation, entitled "Beaver Ecology/Beaver Mythology", at the University of Alberta. Much of the following discussion of the ecological factors contributing to beaver medicine power are extracted from her dissertation.

As earlier noted, the general ecology of the plains bio-region is arid. That is, surface water medicine is of limited supply and usually acts as the limiting factor for many of the medicine powers existing in the landscape. Additionally, the fact that eighty-seven percent of the locational references in chapter one included some reference to a water source clearly indicates that the availability of consistently adequate surface water medicine was of the utmost importance to the Pikuni, as it was to the many medicine powers.

The presence of the Under Water Person, in many ways, shaped the movements and lives of the Pikuni as well as the many medicine powers.
The restrictive nature of surface water requires that the beaver build elaborate dam/pond systems that become operative almost immediately with the initiation of spring runoff (Morgan 1991: 106).

This was especially pertinent to the many smaller tributaries which often ran dry by mid-summer.

More specifically, by fall only select areas, primarily beaver-influenced, contain appreciable amounts of surface water, on a year round basis (Morgan 1991: 106).

The Under Water Person kept water medicine power in available quality and quantity for the Pikuni. According to the Wisconsin Conservation Department, during periods of drought especially, those streams with beaver ponds may be the only available surface water sources (Knudson 1962).

In my previous research (Morgan 1979) the factor considered to be particularly important in the selection of a wintering area was the presence of sufficient surface water, which....was generally not emphasized, perhaps being considered a given. The limited availability of surface water on the plains, especially in fall, was just as critical a factor in survival as shelter in winter (Morgan 1991: 45).

The many buffalo of the plains bio-region were, like the Pikuni, dependent upon available water supplies. In the fall especially, such herds tended to move into Valley areas where water medicine power was still present, particularly along streams and rivers where the Under Water Person was at work.

By fall, the availability of superior forage, as well as the presence of surface water, drew herds back to the winter range. Grasses were still green and nutritious, particularly in the Valley Complex (Morgan 1991:47).

Oral accounts of the relationship between the Under Water
Person and the buffalo medicine power were, at least in part, a reflection of the ecological conditions of the surrounding landscape. The presence of the Under Water Person resulted in a greater, more prolonged presence of water medicine power, which in turn allowed the buffalo medicine power to come to the Pikuni. In this way, Under Water Person had great prestige among the Pikuni. He not only held the water medicine power, but brought the buffalo medicine power close to the Pikuni people precisely when they needed the buffalo most, just before the hard winter of the northern plains.

CONCLUSION REGARDING THE ROLE OF WATER IN THE PIKUNI WORLD VIEW

Water medicine power was revered by the Pikuni people through many direct and indirect expressive activities. Such was clearly signified through ceremonies involving the use of water medicine power such as in the sweat lodge, observance of certain behavioral guidelines when interacting with water medicine power directly, concurrent reverence for the beaver as an integral part of maintaining the presence of water medicine power, and the role of water medicine power in certain oral accounts of past occurrences.

In the Pikuni world view, water medicine power was the medicine power upon which all other medicine powers depended. It was a life providing power with few parallels other than buffalo medicine power. In short, the importance of maintaining a beneficial relationship with the water medicine
power of the landscape cannot be overstated.

In the late nineteenth century, the buffalo medicine power was gone from the Pikuni world. Yet water medicine power still remained. As shown toward the end of the second chapter, in the post-buffalo years of the nineteenth century, the Pikuni were largely settled along Badger and Birch Creeks and the Two-Medicine River. Given the choice of Pikuni people to settle along these water medicine sources, one may reasonably contend that water medicine power, especially that which flowed in such sources, was a powerful force in the lives of the Pikuni people during the last decade of the nineteenth century.
Chapter 4

THE 1896 AGREEMENT; Pikuni Water Rights

As is mentioned toward the end of Chapter 2, by the last decade of the nineteenth century, there had already been a series of formal interactions between the United States Government and the Pikuni Nation. In 1895, the United States government embarked upon the last of such formal interactions, resulting in the 1896 Agreement with the Pikuni Nation. For the purpose of grounding this Agreement and the provisions thereof that were to "benefit" the Pikuni, it is important to outline those treaties and agreements between the United States and the Pikuni Nation during preceding decades.

In 1851, a commission was appointed by the President to meet with many of the plains Indian Nations for the purposes of settling the many disputes between said Indian nations which of late had been affecting trade with the U.S. and settlers passing through the region on their way to California. Although the Pikuni had decided not participate in these negotiations they were awarded their first compensation from the United States in consideration of treaty stipulations under which they were required to sacrifice certain territories and maintain peaceful interaction only with the other participating Nations.
In consideration of the treaty stipulations,....the United States bind themselves to deliver to said Indian nations the sum of fifty thousand dollars per annum for a period of ten years...(Article 7, Treaty of 1851)32

A similar treaty was established in 1855 in which the Pikuni were to be paid for large land cessions and agreements with other tribes west of the continental divide (eg. Salish, Kootenai, Nez Perce). In the treaty of 1855, the Pikuni were allocated twenty thousand dollars annually for ten years in the form of annuities, goods, and services.

Twelve years later another treaty with the Pikuni was developed. The 1867 Treaty involved a land cession from the Pikuni to the United States and payment in the form of annuities and services agreed upon by the Pikuni. However, the treaty was never ratified by Congress due to unrelated complications.33

During the early 1870's President Grant and the United States Congress unilaterally removed portions of the Pikuni reservation without compensation. Little in the way of open, formal negotiations with the Pikuni occurred until later in the next decade.

In 1887, four years after the Pikuni went on the last recorded buffalo hunt in the United States (1883), a three-

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32 Payments from the U.S were to be paid in the form of annuities.

33 En route to Washington D.C. via San Francisco, the chairman of the commission died suddenly. The copy of the treaty was never formally introduced to congress and thus never ratified.
A man Commission was sent from Washington, D.C. to meet with the "various tribes or bands of Indians residing upon the Gros Ventre [Atsina], Piegan [Pikuni], Blood [Kainah], Blackfeet [Siksikah], and River Crow Reservation in Montana Territory" (1887 Agreement: 1). John Wright, Jared Daniels, and Charles Larabee were to engage the five Indian Nations as a collective unit for the purpose of further downsizing the reservation presently held in common by the five nations.

Whereas the reservation set apart by act of Congress approved April fifteenth, eighteen hundred and seventy-four, for the use and occupancy of the [various nations]...is wholly out of proportion to the number of Indians occupying the same, and greatly in excess of their present and prospective wants...(1887 Agreement: 2).

The Commission was vested with the authority to "negotiate" on behalf of the United States government.

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34 The General Allotment Act was the subject of great emphasis in Congress during this time. Within this Act congress clearly intended to transform all Indian nations into agricultural communities. Thus, Congress stated that every Indian man, subject to the provisions of the General Allotment Act, was entitled to a certain amount of land necessary for a successful farm. In the case of the plains Indians, the amount of land allocated was usually one hundred and sixty acres per adult man. Hence, the tract of land within the Pikuni reservation prior to 1887 was deemed "wholly out of proportion" with the needs of the Indians living there.

35 True negotiation would have required two mutually respected autonomous political entities. By 1887, most tribes were heavily dependent upon the United States for much of their daily subsistence. Thus, although the Indians still considered themselves to be distinct political entities, the United States had by now embarked upon a massive campaign to assimilate the Indians into the larger Euro-American society.
Under the terms of the Agreement\textsuperscript{36}, for the sale of certain reservation lands, the Indian nations were to receive one hundred and fifty thousand dollars in payments, annuities, and other assistance from the United States over a ten year period. In effect, the large reservation of the five Indian nations was broken into much smaller, separate reservations, each generally located where the differing groups already lived.

The lands sold to the United States included the Sweet Grass Hills of northcentral Montana. The Hills had long been known to contain large quantities of valuable minerals. Prospectors had already swarmed into the Hills despite the protests of the Pikuni and other Indian Nations. The United States was thus anxious to persuade the Indian Nations to sell the Hills in order to avoid potentially violent conflicts between the Indians and the prospectors.

For the sale of the Sweet Grass Hills, among other lands, the Pikuni were to receive one hundred and fifty thousand dollars per year for ten years. The payment would be made largely in the purchase of "cows, bulls, and other stock, goods, clothing, subsistence, agricultural and mechanical implements, in providing employees, in the education of Indian

\textsuperscript{36} In 1871, the United States ended all treaty making with the various Indian Nations within U.S. borders. However, land cessions and other transactions between the U.S. and the various Indian Nations could still be executed through the formal Agreement process. Such agreements held the same legal weight as did treaties.
children procuring medicine and medical attendance....." (1887 Agreement: Article 3).

In other words, the decision had been made in Washington, D.C. as to what was in the best interest of the Indian Nations of the Montana Territory. The sale of the Sweet Grass Hills did not fall lightly upon the Pikuni people. There were many cultural ties to the Hills area, particularly during the buffalo days when large summer herds were to be found there.

However, as indicated toward the end of Chapter One, the Pikuni had largely chosen to settle near the "backbone" or Rocky Mountains along Badger and Birch Creeks as well as along the Two-Medicine River.

Winters were less severe along the Front range. Wood and timber could be gathered and cut in the foothills of the backbone. There was still an occasional game animal in the foothills region to help in feeding one's family. Additionally, the streams flowing from the mountainous region, being the many headwaters of the Missouri River, provided the Pikuni with a more regular supply of fresh water medicine than farther out on the plains.³⁷

In sum, the Pikuni had located in that area of their homeland which would provide them with the best of all possible conditions under the mounting restrictions and

³⁷ There had long been strong social taboos to eating fish for fear of offending water medicine power in some way. However, in the post-buffalo years, the Pikuni were forced to eat fish as a means of survival.
pressures of the Euro-American society. Clearly the backbone helped to fulfill the daily needs of the Pikuni.

Less than a decade after the cession of the Sweet Grass Hills, the United States again sent a three-man commission to "negotiate" with the Pikuni Nation living on the Blackfeet Reservation and the Aisina and Assiniboine Nations now living on the Fort Belknap Reservation within the state of Montana. In 1895, William Pollock, George Grinnell, and Walter Clements were to meet on two separate occasions with these Indian Nations in order to acquire for the United States government certain reservation lands through sale from said Indian nations. The Agreement with the Pikuni was negotiated in September of 1895 and ratified by Congress in January 1896.

Under the terms of this Agreement, the Pikuni were to again receive payment over a ten-year period from the United States government. The land ultimately ceded by the Pikuni in the 1896 Agreement presently includes the entire eastern half of Glacier National Park, and an area of the Lewis and Clark National Forest to the south of the Park known as the Badger Two-Medicine Area. The "ceded strip" (as it is locally known) comprised the last remaining "backbone" portion of the Pikuni reservation, a remnant of Pikuni aboriginal territory which at one time included the entire eastern half of the backbone from the Yellowstone River north to the north fork of

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38 In Pikuni tradition, the Rocky Mountains are known as the backbone of the world. There are various accounts as to why this is so known.
the Saskatchewan River.

Unlike earlier treaties and Agreements between the U.S. and the Pikuni, in the 1896 Agreement the Pikuni ceded the legal Indian title to the land of the "backbone" area but reserved specific rights which would allow them to continue their relationship with the many medicine powers of the landscape. Under Article 1 of the 1896 Agreement, the Pikuni:

......reserve to themselves, the right to go upon any portion of the lands hereby conveyed so long as the same shall remain public lands of the United States, and to cut and remove therefrom wood and timber for agency and school purposes, and for their personal uses for houses, fences, and all other domestic purposes. And provided further that said Indians hereby reserve and retain the right to hunt upon said lands and to fish in the streams thereof so long as the same shall remain public lands of the United States......

39 Conversely, the United States aquired mineral rights within the ceded strip landscape and fee simple title to the land itself.

40 The lands ceded by the Pikuni in 1896 have remained public lands of the United States through the present day.
Although Article 1 is silent on the question of a reservation of water rights, various important government records relating to the 1896 Agreement indicate that the United States did recognize that Pikuni Water Rights were in fact reserved by the 1896 Agreement. To start with, Pikuni Water Rights were explicitly acknowledged as reserved within the 1896 Agreement in a letter dated June 11, 1896, from the Commissioner of Indian Affairs, D.M. Browning, to the Secretary of the Interior, Hoke Smith.

There is nothing contained in the report of the commissioners nor in the record of the proceedings of council accompanying the agreement from which to determine whether the timber and water privileges of the Indians have been impaired by this cession, but I have been informally assured by Mr. Pollock, the Chairman of the Commission, that the water rights of the Indians will not be in any way impaired by the cession, and that they have retained enough wood and water for their uses for all time (emphasis added).)

In addition it will be observed that by Article I the Indians retain the right to get wood and timber from the ceded portions of the reservation, so long as it shall remain public land of the United States. I am, therefore, satisfied that in making this Agreement the water and timber rights have received the due consideration of the commissioners and have been preserved in tact (emphasis added) (Browning 1896: 6, Reproduced in Appendix A).

Further evidence that Pikuni Water Rights were intended to be reserved by the 1896 Agreement is found in the Blackfeet Agent’s

41 With regard to timber rights, this letter curiously conflates the phrases "wood and water...for all time" and "so long as it shall remain public lands", suggesting perhaps that in 1896 the administration did not intend the later restrictive construction of the meaning of "public land" adopted to defend its position in regard to Glacier National Park. This confusion concerning timber rights does not extend to water, since the "so long as it shall remain public" language is limited only to rights explicitly mentioned in the Agreement (timber, access, hunting, and fishing).
Annual Report to the Commissioner of Indian Affairs. Agent George Steell had been the Blackfeet Agent since 1888, just after the last agreement with the Pikuni was ratified by Congress. On August 15, 1896, Agent Steell wrote to the Commissioner of Indian Affairs that the Pikuni had in fact reserved water rights within the Agreement negotiated the previous year.

By the terms of a treaty entered into between these Indians and the government, dated September 26, 1895, they relinquish all claim to the mountainous portion of this reserve (supposed to contain valuable minerals), reserving, however, the right to use the water and timber on the same (emphasis added) (Steell 1896: 2).

Clearly, the Chairman of the Commission (Pollock), the Blackfeet Agent (Steell), and the Commissioner of Indian Affairs (Browning) had considered the issue of Pikuni Water Rights and found them to have been reserved intact for all time.

However, it is important to briefly illustrate some highlights of the proceedings leading to the final agreement. The character of the proceedings may be summed up with the following excerpt.

Mr. Pollock: You have made no proposition on the land you are now talking of, north from the railway.

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42 A copy of the relevant portion of Agent Steell's report is provided in Appendix B.

43 With the Allotment Act of 1887 (earlier discussed), the United States had formally embarked upon a national program to assimilate all Indians to the non-native society. In doing so, it was believed that all Indian Nations should work towards becoming agrarian or pastoral communities.

Hence, most formal Agreements with Indian Nations made during this time period included language which expressed a principle purpose of fostering this transition. In speaking of Pikuni Water Rights, government officials were most likely referring to that water needed to accomplish this objective (i.e. irrigation water).
Little Dog: I am about to make a proposition on that land and I think it will surprise you; make you faint and fall down. We don’t want the Great Father to feed and clothe us all our lives. We ask for the land north from the railroad $3,000,000, so we will be able to maintain ourselves and care for our wives and children. There are many things in which the Great Father has cheated us. Therefore we ask $3,000,000 for that land......These mountains will last forever; the money will not.

Mr. Pollock: You have asked twice as much for this land as you did for a larger tract of land upon which your cattle could graze [referring to the 1887 cession of the Sweet Grass Hills]....It is true that the money you may get will be gone after a time, but [in selling] the mountains you will be getting clothing, blankets, cattle, wagons, food, etc. That money offers you all these things, while the mountains offer you nothing but snow and rock and ice.

Little Dog: I have two things to tell you, then some others will talk. I know that you are trying to say that the mountains are of no benefit to us. I know that they are of some benefit to us. It is a fact that when a small child places value upon an article an older person will take pity and give it more than it asks. We want you to treat us in the same manner (Senate Document 118; 1896: 17-18).

In the pages that follow, virtually every Pikuni chief present reiterated Little Dog’s sentiments. Some emphasized the history of U.S. disregard for the provisions of previous treaties and agreements with the Pikuni, especially the 1887 Agreement. Others noted their personal relationship with the mountainous area to the west.

None of the Pikuni delegates had yet mentioned the area south of the railway (Badger Two-Medicine Area). Yet they were all asking an enormous price for the land north of the railway (Eastern half of Glacier National Park). The price for such lands as declared by Little Dog was unanimously agreed upon. Among those who were in unyielding support of Little Dog were Three Suns, Little Plume,
White Grass, Bull Shoe, Running Crane, Middle Calf, Four Horns, White Calf, Mad Wolf, John Miller, Mountain Chief, Tearing Lodge, Double Runner, Yellow Wolf, Wolf Tail, and Bull Calf, all of whom were powerful chiefs among the Pikuni during this time.

Over the period of September 20-23, 1895 the two parties bantered with one another in the hopes of convincing the other to accept their respective propositions. At the end of the third day, it appeared as though the two sides would never come to agreement. Commissioner Pollock then suggested that they adjourn until 10 o’clock the following morning.

Little Dog: We had better come together now and save another meeting. We can then go home. You have named your price and we have named ours. We will never recede. We can not agree. Why meet again, then? You will blame us in this matter (Senate Document 118: 29).

The Commission then agreed that they would leave on the 25th, seeing that they could not come to agreement with the Pikuni. It is here that the written record of negotiations contains a significant gap.

On September 24, Agent Steell convinced four Pikuni leaders to come to his residence to talk over the matter. Agent Steell, Little Plume, Tail Feathers, Curly Bear, and Eagle Ribs were joined by Joe Kipp (a local trader), and Joe Cook (the agency butcher). Later that day, a second meeting with many other chiefs was held at the Agent’s home.

There is no record of the proceedings from these meetings as they were an informal affair. It is thus unknown what Agent Steell and the others discussed with the Pikuni men gathered at the
Agent’s home on September 24.

Yet, the following day, the Pikuni were able to intercept the Commissioners before they left for Washington, D.C. The record of proceedings from September 25 is quite short in comparison with the lengthy proceedings of earlier negotiations. In a mysterious turn of events, White Calf, one of the chiefs who had been opposed to any agreement other than that proposed by Little Dog, then outlined for the first time what, in essence, would become the "reserved rights" provisions of the 1896 Agreement.

White Calf: ......Chief Mountain is my head. Now my head is cut off. The mountains have been my last refuge. We have been driven here and now we are settled. From Birch Creek to the boundary line (Canada) is what I now give you. I want the timber because in the future my children will need it. I also want all the grazing land. I would like to have the right to hunt game in the mountains and fish in the mountain streams....(Senate Document 118: 30).

Apparently, Agent Steell and two local friends of the Pikuni had managed to create a proposition that was acceptable to the Pikuni despite the understandable skepticism from the Pikuni point of view. Joe Kipp had been a trader and friend of the Pikuni since the 1870’s. Agent Steell had known the Pikuni for many years and had been the Blackfeet Agent for the past four years. Presumably, the Agency butcher had worked at the Agency for some time. Thus, one may reasonably assume that these three non-Indians had some understanding of what was important to the Pikuni, and appear to have been of the mind to work at least in part within their value system.

Although there had been earlier treaties and agreements with the Pikuni, the 1896 Agreement was the first and last in which the
Pikuni were to cede a portion of their reservation that was upstream from the main body of their population and in fact the headwaters of most all water flowing through their reservation. Hence, the 1896 Agreement was the first formal interaction with the United States in which the issue of water rights was of particular significance.

**PIKUNI LEGAL WATER RIGHTS**

In addressing the issue of Pikuni Water Rights, and the reservation thereof within the 1896 Agreement, it is important to understand some of the basic concepts associated with the water rights of Indians in general. Thus the following will include a brief outline of such concepts primarily established through precedent setting court decisions since 1896.

Over the past century, two legal paths of reasoning from the courts have developed which address the water rights of Indians. Based upon the reasoning of the Supreme Court in what would become a landmark decision early in this century, the concepts of the Reserved Water Rights Doctrine have grown and developed. It is within this Doctrine of case law, that the elder legal path of Indian Water Rights has been construed.

The Supreme Court directly addressed the issue of Indian Water Rights for the first time in a case entitled *Winters v. U.S.*, 297 U.S. 564 (1908). Hence, such rights have come to be known as "Winters Rights". In its reasoning, the Court distinguished between

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44 As is exhibited by court reasoning in cases later discussed, the Reserved Water Rights Doctrine actually applies to all federal reservations of land and is not limited to Indian Reservations.
Indian Water Rights, and the water rights of non-Indians residing in western states. A brief review of that legislation which established the water rights of such non-Indians is therefore necessary in order to better understand the difference between such water rights and the water rights of Indians living on reservations throughout the western United States (i.e. Pikuni).

In the Mining Act of 1866 (14 Stat. 251), Congress recognized that all non-Indian water rights were to be addressed through local customs, laws and the decisions of the courts. In 1870, Congress further recognized that all federal patents of homestead rights were subject to previously vested or accrued water rights under the 1866 Mining Act (supra).

This was the first time Congress actually mentioned the notion of "prior appropriation" in setting standards for allocation of water resources. That is, all appropriative water rights were allocated on a "first in time, first in right" basis. The appropriative water rights of an individual were thus subordinate to any pre-existing appropriative water rights drawing from the same water source.

The Desert Lands Act of 1877 (43 U.S.C.A. secs. 321-329) formally solidified the legal framework of "prior appropriation" including provisions for further appropriation of all unappropriated waters above and beyond those already in use. The Act applied to Arizona, California, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming, and later Colorado. In essence, the Desert Lands Act
"effected a severance of all waters upon the public domain, not theretofore appropriated, from the land itself". California-Oregon Power Co. v. Beaver Portland Cement Co., 295 U.S. 142 (1935).

Yet, the Act did not infringe upon well established principles of state laws and customs which often embodied a "use it or lose it" philosophy. That is, under the guiding principles of the Act, and subject to differences in state law, an individual who failed to appropriate the full amount of his/her water right, was subject to the loss of that portion not actively used by him/her.

The three major substantive principles of non-Indian Water Law in most western states are, first, that all appropriative water rights are subject to pre-existing water rights, and, second, that one must perpetually use one's allocation of water or risk losing such rights to another. Finally, that all waters of the public domain are severed from the land through which they flow. As will be shown, Indian Water Rights, under the Reserved Water Rights Doctrine differ significantly from such principles.

**WINTERS RIGHTS**

The Supreme Court first established the principles and reasoning of what would become the Reserved Water Rights Doctrine in Winters v. U.S., 297 U.S. 564 (1908). In this case, the United States, as trustee of the Assiniboine and Gros Ventre Nations of the Fort Belknap Reservation in Montana, argued that the appropriation of water from the Milk River by non-Indians up river from the reservation effectively threatened an adequate water supply for a potential irrigation system on the reservation. Thus
the question arose as to whether or not the Indians could claim future water rights to the use of the Milk River waters.

In 1888, the Indians of Fort Belknap had signed an Agreement reducing the size of their reservation. This Agreement affected the northern boundary of the reservation, placing it squarely along a portion of the Milk River. The boundary in question remained unchanged between 1888 and 1908. Hence, in the Winters decision, the Court interpreted the 1888 Agreement establishing the reservation boundary as it was in 1908.

The Court found that the expressed purpose of the reservation was in fact to create a "pastoral and civilized people" out of the Indians and further that the lands of said reservation were "arid, and without irrigation, were practically valueless." Both provisions impliedly included a right to the water of the reservation for the fulfillment of its purposes (Brown 1994: 2-3).

Applying the canons of treaty and agreement construction, the Court found that it must necessarily rule in a way that "would support the purpose of the agreement" rather than one that would "impair or defeat it" (Brown 1994: 3). Thus the Court concluded that with the formation of the reservation in 1888, the United States, as trustee for the Indians, had impliedly reserved sufficient water to meet the needs, present and future, of the Indians residing upon said reservation⁴⁵. Furthermore, the Court

⁴⁵ Although Winters limited the potential use of the waters to those needed to fulfill the purposes of the reservation only, later court findings broadened the definition of such purposes and included other types of water usage (ie. Arizona v. California, 439 U.S. 419 (1979)).
ruled that such water rights were fixed at the time of the reservation's creation and that all water claims since that time were subordinate or junior to those of the Indians residing therein.

Indian Water Rights as construed within the Reserved Water Rights Doctrine are unique in two respects. In the first respect, such Indian Water Rights are appurtenant to the land through which the water flows, unlike non-Indian water rights subject to the Desert Lands Act which severed the water resource from the land.

In the second respect, Indian Water Rights are not lost due to non-use. That is, in Winters, the Indians of Fort Belknap had not yet actually appropriated water from the Milk River but rather thought that they might do so in the future. The Winters Court considered the purpose of the reservation as applying to the future as well as the present. Thus the Court indicated that so long as the reservation remained intact, so did the water rights of the Indians residing therein, despite any non-use.

The Blackfeet Reservation boundary as it existed in 1896 had been established in 1887, and the western boundary of the reservation between 1887 and 1896 included the area ceded to the U.S. in the 1896 Agreement. Hence, under the Reserved Water Rights Doctrine as established by the Supreme Court in Winters the Pikuni clearly held Winters Rights within the "ceded strip" area during the years of 1887-1896.

As is evidenced by statements within important government

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46 See Footnote 43.
documents relating to the negotiations of 1895, Pikuni "Winters Rights" were not affected and/or reaffirmed by the 1896 Agreement. Therefore, one must conclude that, in signing the 1896 Agreement, the Pikuni had at least retained water rights, as embodied within the Reserved Water Rights Doctrine to the waters of the "ceded strip" "for all time".

However, the question still remains as to whether Pikuni Water Rights were specifically addressed during the unrecorded portion of the negotiations at Agent Steel’s residence. That is, if such rights had been addressed during these meetings, had the government, as represented by Agent Steell in this case, clearly distinguished between water rights as defined under state laws, and water rights as the Pikuni would have known them given their world view and ontological understanding of water medicine power?

If water rights had not been discussed, and such legal distinctions were not disclosed to the Pikuni, had the Pikuni intended to include water rights, as they would have known and understood them, within the 1896 Agreement? Assuming that the Pikuni had intended to do so, does their intent hold any legally binding commitment from the United States?

As will be discussed, within the Pikuni world view, the reservation of certain rights within the "ceded strip" may be reasonably interpreted to include a reservation of Pikuni water rights as the Pikuni would have known them. Therefore, a discussion of the second legal path of reasoning from the courts is of critical importance.
ABORIGINAL WATER RIGHTS

An Aboriginal Right of an Indian Nation to a particular resource has been defined by the courts as an uninterrupted access to and subsequent use of a an element(s) of a particular landscape since time immemorial\(^\text{47}\). Furthermore, when it has been established that an Aboriginal Right does exist, this right is considered "sacred as is fee simple of the whites." \textit{Mitchel v. U.S.}, 34 U.S. (9 Pet.) 711

Given the Pikuni relationship to the landscape of the Rocky Mountain Front (as documented in previous chapters), and further given that the "ceded strip" comprises a portion of this landscape, one may reasonably contend that any rights retained by the Pikuni within this landscape, are by definition, Aboriginal Rights which have existed since time immemorial.

When speaking of Aboriginal Rights to the waters of a landscape, the courts have developed a second legal path of reasoning, recognizing Indian Aboriginal Water Rights. Thus the question posed is whether the Pikuni have retained their Aboriginal Water Rights within the "ceded strip" landscape.

There is perhaps no court case more relevant in addressing this question than \textit{U.S. v. Adair}, 723 U.S. 1394 (1983). It is thus important to understand some of the background of this case in order to understand its relevance to addressing the question of

\(^{47}\) see \textit{U.S. v. Klamath and Modoc Tribes}, 304 U.S. 119; see generally "Indian Title: The Right of American Natives in Lands They Have Occupied Since Time Immemorial", 75 Columbia Law Review 655.
Pikuni Aboriginal Water Rights in the ceded strip.

In 1864, the Klamath and Modoc Nations as well as the Yahooskin Band of the Snakes signed a treaty with the United States whereby the Indians ceded all title and rights to approximately twelve million acres, reserving for themselves eight hundred thousand acres. 16 Stat. 707, 708 By the terms of Article I within this treaty, the Klamath reserved exclusive rights to hunt, fish, and gather on their newly formed reservation. U.S. v. Adair, 723 U.S. at 1398; Kimball I, 493 F.2d 566

In 1887, the Klamath Reservation became subject to the provisions of the General Allotment Act, whereupon individual Klamath Indians were allocated individually owned plots of land to farm. Through various means, much of the land allocated to individual Indians fell into the ownership of non-Indians (approximately twenty five percent of the reservation).

In 1954, the Klamath tribal status was terminated by the Klamath Termination Act and virtually all lands communally held by the tribe became public lands of the United States. Through a series of purchases in the 1960's and early 1970's, the United States came to own over seventy percent of the old Klamath Reservation lands.

In 1975, the United States filed suit in district court for an adjudication of water rights on reservation lands now owned by the United States. In 1979, the district court ruled (in part) that the Klamath Nation had reserved water rights in the 1864 Treaty with a

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48 See footnote 34
priority date of time immemorial, "to as much water on the reservation lands as they need to protect their hunting and fishing." U.S. v. Adair, 478 F.Supp. 336, 345 (D.Or. 1979)

The district court’s decision was subsequently appealed to the 9th Circuit court wherein the 9th Circuit court first referred to the Reserved Water Rights Doctrine in its reasoning. Based primarily upon two Supreme Court decisions involving non-Indian reservations\(^4\), and a separate case involving another Indian Reservation\(^5\), the 9th Circuit court ultimately concurred with the district courts decision.

The court concluded in part that if the reservation in question was intended to maintain the continuity of the hunting and gathering "lifestyle" concurrent with its purpose of developing agricultural and/or pastoral communities, then any reserved rights to the use of the landscape which necessarily imply the need to maintain the water of the landscape, carry with them an inherent water right which must be respected\(^6\).

Furthermore, the 9th Circuit court recognized, as had the


\(^5\) In Colville Confederated Tribes v. Walton, 647 F.2d 42 (9th Circuit) the court had found that reservations may serve a dual purpose, provided sufficient historical documentation that such was intended within the construction of a given treaty or agreement.

\(^6\) Maintaining the continuity of the hunting and gathering "lifestyle" may be alternatively phrased as maintaining the traditional relationship of the Indian Nation to their aboriginal landscape. Note the importance within the Pikuni world view of maintaining a positive relationship with their aboriginal landscape.
district court, that the reserved rights of the Klamath Nation in the 1864 Treaty (ie. hunting, fishing, and gathering) were Aboriginal Rights as defined above\textsuperscript{52}. Hence, the 9th Circuit court concurred with the district court in ruling that Klamath Water Rights, as impliedly reserved in the 1864 Treaty, held a priority date of time immemorial\textsuperscript{53, 54}.

Like the Klamath of the mid-nineteenth century, the Pikuni elders of 1896 presumably recognized that their people were in a time of transition and change. Their future could not have been easily predicted. Thus the Pikuni, and particularly White Calf (p.78) may be interpreted as intending to maintain the Pikuni relationship with the landscape of the "backbone" area while creating a situation which maximized the choices and opportunities available in an unknown, unpredictable future. Thus, although White

\textsuperscript{52} In finding a priority date of time immemorial, the court based its decision on the well accepted premise that "the treaty is not a grant of rights to the Indians, but a grant of rights from them - a reservation of those not granted." U.S. v. Winans, 198 U.S. 371, 381; Washington v. Fishing Vessel Assn., 443 U.S. 658; U.S. v. Wheeler, 435 U.S. 313

\textsuperscript{53} U.S. v. Adair, 723 F.2d at 1409

\textsuperscript{54} The court in Adair had earlier concluded that Klamath Reserved Rights were not abrogated by the Klamath Termination Act. Hence, fee simple ownership of former reservation lands was subject a priori to the Aboriginal Rights of the Klamath Indians despite their loss of tribal status and concurrent loss of tribal land held in trust for them by the United States. This fact is particularly relevant to Pikuni Reserved Rights in the "ceded strip" in that the Pikuni, like the Klamath, no longer hold tribal ("Indian") title to the land in which they have reserved certain rights.

That is to say, recognized Aboriginal Rights are not relinquished unless it is the explicit intent of the Indian Nation to do so within a treaty or agreement. The determining factor under such circumstances is the intent of the treaty or agreement and not the simple fact that a cession or loss of land was involved.
Calf does not mention the reservation of water rights specifically, he does mention certain rights which, according to the 9th Circuit court in Adair, carry with them the right to a sufficient quantity of water.

Moreover, that water medicine power, as part of the landscape, was impliedly intended to be reserved by the Pikuni in signing the 1896 Agreement is evidenced by White Calf’s statement following the unrecorded session of the 1895 negotiations. In speaking for his people, White Calf refers to the landscape in a very personalized manner. "...Chief Mountain is my head, now my head is cut off...", further indicating a deeply held relationship between his people and the "ceded strip" landscape.

White Calf then makes a point of including several forms of interaction with the landscape which he would like to reserve for future generations (ie. the right to hunt, fish, collect timber, etc.). In essence, the words of Chief White Calf, and the subsequent language in Article 1 of the 1896 Agreement reserving certain rights in the "ceded strip" for the Pikuni, clearly demonstrate the intent of both the Indians and the United States government to maintain the continuity of the Pikuni hunting, gathering and cultural relationship ("lifestyle") within the "ceded strip" landscape.

When one considers the disparity of the Pikuni and non-native cultural viewpoints, awkwardly meshed together within the provisions of the 1896 Agreement, it becomes apparent that the Pikuni may have been significantly constrained by the language of
the dominant non-native society. Thus, one may reasonably presume, bearing in mind the fundamental premises of the Pikuni World view (see Chapter 1), and more specifically their relationship with water medicine power (see Chapters 2-3), that the Pikuni intended the water medicine power running in the streams of the mountains to be maintained in a pure, unpolluted condition, since that is the only form in which the Pikuni or any of the other medicine powers of the landscape knew it to be.

That is, in providing for the opportunity to maintain their hunting and gathering "lifestyle" in relation to the landscape of the "ceded strip", the Pikuni had assumed that the water medicine power of the "ceded strip" would remain in quantity and quality as it had been since time immemorial. For among many other negative effects, the degradation of water medicine power within the "ceded strip" would negatively affect the power of the sweat lodge in the Okan and in other ceremonies involving such use of water medicine power. Additionally, the power of the Under Water Person and the relationship of the Pikuni to this power, as well as the relationship of the individual to the landscape in hunting and/or the gathering of roots would be severely affected by the pollution of the water medicine power upon which all medicine powers depend.

In the world view of the Pikuni, a violation of the purity of the water medicine power would in fact violate all medicine powers associated with water medicine power in the surrounding landscape. Such a violation would, in effect, render Pikuni Reserved Rights within the "ceded strip" landscape as untenable.
Certainly, water medicine power was part of the landscape, and highly valued by the Pikuni. In the Pikuni world view, and most likely the individual perspective of White Calf, water medicine power was not considered a separate entity from the many other medicine powers of the landscape in the mountains. Since the early nineteenth century, the courts have generally held that all treaties and later agreements with Indian Nations should be construed as the Indians would have understood them at the time the treaty or agreement was made. *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515; *Choctaw Nation v. Oklahoma*, 397 U.S. 620; *Kimball I*, 493 F.2d 566 n.7

Additionally, the Pikuni imparted little meaning to the notion of land ownership. What was important to them was the guarantee of their continued right of access to, and varied use of the resources upon the land. Great pains would have had to have been taken to ensure that such distinctions were fully understood by the Pikuni elders as delegates to the negotiations with the Commission. It has been well established by the courts that ambiguities relating to particular treaties and agreements are to be resolved in favor of the Indians. *Oliphant v. Susquamis Indian Tribe*, 435 U.S. 191; *Bryan v. Itasca County*, 426 U.S. 373; *Confederated Salish and Kootenai Tribes v. Namen*, 665 F.2d 951 (9th Circ.)

CONCLUSION

There are three fundamental claims to be made regarding Pikuni Water Rights within the "ceded strip" landscape. First, within the 1896 Agreement, the Pikuni implicitly retained their "Winters
"Rights" within the ceded landscape. That Pikuni Winters Rights had been retained by the Agreement is conclusively shown by the fact that on two separate instances following the negotiations, within important government documents relating to the negotiations, two government officials definitively stated that Pikuni Water Rights had be "preserved in tact", "for all time" by the 1896 Agreement.

Given the historical time period, and the government campaign to create agricultural/pastoral communities out of Indian Nations, it is very likely that such government officials were referring to that water necessitated by such agricultural and pastoral pursuits, both present and future. Significantly, the Blackfeet Reservation as defined in 1887 and renewed in 1896 was explicitly intended to create a pastoral community out of the Pikuni people.

Second, the Pikuni impliedly reserved Aboriginal Water Rights within the "ceded strip" landscape. That is, the Pikuni had since time unknown, had access and use of the headwaters in the mountains west of their present day reservation. There is no reason to believe that the Pikuni intended to end this relationship. In fact, as is evidenced by their locational choices in the late nineteenth century (see Chapter 2, end), there is strong reason to suggest that the Pikuni were consciously working toward maintaining their relationship with the "ceded strip".

According to the principles of aboriginal rights as addressed and defined in U.S. v. Adair, (723 F2d. 1394) the rights to hunt and fish carry with them the right to a sufficient quantity of water necessary for such activities. Under the guiding principles
as outlined in Adair, the Pikuni therefore implicitly reserved their Aboriginal Water Rights in reserving the right to hunt and fish within the "ceded strip" landscape. This point is especially significant in light of the unknown content of the unrecorded negotiations and the notable turn of events immediately thereafter (ie. White Calf’s outline of reserved rights).

Third, inherent within the reservation of the Pikuni Aboriginal Water Rights within "ceded strip" landscape, is the right to unpolluted, undegraded water. Within the Pikuni world view as outlined in previous chapters, the polluting of such waters in any way unknown to past generations of Pikuni people would necessarily violate the aboriginal relationship of the Pikuni to the "ceded strip" landscape, thereby rendering Pikuni Reserved Rights within the "ceded strip" as untenable.

Hence, and in conclusion, the recognition of Pikuni Aboriginal Water Rights within the "ceded strip" landscape, necessarily precludes any polluting of the waters within the "ceded strip" which negatively affects the opportunity for the Pikuni to maintain their traditional relationship with such water medicine power, or associated medicine powers in any way known to them since time immemorial. That is, any degradation of the water quality in the ceded strip would constitute a direct violation of Pikuni Aboriginal Water Rights.
APPENDIX A

LETTER FROM COMMISSIONER OF INDIAN AFFAIRS BROWNING; TO SECRETARY OF INTERIOR HOKÉ SMITH
JANUARY 11, 1896

IN:

lines being provided for in Article VI, and the other as to the disposition of the moneys arising from the session being provided for in Article II.

There is nothing contained in the report of the commissioners, or in the record of the proceedings of council accompanying the agreement from which to determine whether the timber and water privileges of the Indians have been impaired by this session, but I have been informally assured by Mr. Pollock, the chairman of the commission, that the water rights of the Indians will not be in any way impaired by the session, and that they have retained enough wood and water for their uses for all time.

In addition it will be observed that by Article I the Indians retain the right to get wood and timber from the ceded portions of the reservation, so long as it shall remain public land of the United States. I am, therefore, satisfied that in making this agreement the (water) and timber rights of the Indians have received the due consideration of the commissioners and have been preserved intact.

The tract ceded by the Indians is estimated to embrace, according to the report of the commission, about 800,000 acres of land. The consideration agreed on is $1,500,000, or a little less than $2 per acre.

It will be observed by an examination of the records of the proceedings of the councils held with the Indians at which this agreement was negotiated that they had an exaggerated idea of the value of the lands about to be surrendered, and that the price agreed on is just one-half of what the Indians desired for a smaller tract of country than that ceded. It is shown in fact that the commission had practically abandoned the idea of coming to any agreement with the Indians, on account of the exorbitant price claimed by them, and that the council had adjourned without date, when, after conference with the agent, the Indians changed their minds and asked the commissioners to meet them again in council, at which the agreement was concluded.

The agreement does not require any immediate appropriation, except such sum as may be necessary to pay half the expense of surveying the new boundary line provided for in Article VI thereof, as the agreement provides for the making of the first appropriation on account of consideration-money on the expiration of the payments provided for in the agreement of 1887. These payments will expire with the fiscal year of 1896, when the first appropriation of $300,000 will have to be made and be available during the fiscal year of 1897.

It is thought by a wise expenditure of the moneys provided for in the agreement that the Indians can be made contented and the bonds for the future term of years will be taken care of by the vote of appropriations for the benefit of those Indians under the agreement.
APPENDIX B

BLACKFEET AGENT GEORGE STEELL REPORT TO COMMISSIONER BROWNING

IN:

have been turned away for lack of room. This is particularly to be regretted, as the full-bloods are usually slower in coming in, hence are more often left out. Room for all who may apply seems at present the best remedy for this. The pupils were noticeably prompt in entering school, and with increased provision the attendance could easily be doubled.

We have been hindered also by lack of employees, but this has been remedied in part, and will, I trust, be wholly provided for in the near future. We feel this especially during the winter, as an unusual number of both pupils and employees were ill with a form of grippe prevalent in the vicinity. Fortunately few of the cases were serious, and we have no deaths to report.

Withal, there has been improvement; so that the year has been far from unsatisfactory, and we are encouraged for the future. The pupils in general have profited by their opportunities, and in a few cases marked improvement can be noted. Employes have worked harmoniously, and in most cases have shown great interest in their work. Parents have been more helpful in keeping their children in school. While we realize how very much remains to be accomplished, we are equally sure that something has been done.

Very respectfully, yours,

WIOLA COOK, Superintendent and Principal Teacher.

REPORT OF FEMALE INDUSTRIAL TEACHER, WHITE EARTH RESERVE.

BEAULIEU, MINN., August 15, 1896.

SIR: My work as female industrial teacher (field service) commenced the day after my arrival, April 17, 1896, being called upon that early to visit the sick. Since then have done all possible under existing conditions. The people live at long distances apart, and it is impossible to reach them all on foot. Several times different ones have come for me with their teams, thus enabling me to extend my visiting beyond walking distance, and also to visit the settlement at Twin Lakes, 12 miles away. The women welcome me cordially and are anxious to learn, and while many mixed-bloods are using civilized methods and are well advanced in the arts of cooking, sewing, etc., they are the exceptions. The large majority are struggling in the dark, knowing there is a better way but ignorant of how to find it. These excite my whole heart and sympathy. I believe that when the women learn to utilize and cook properly the produce of the farm and garden the men will be greatly encouraged in their efforts at cultivating them.

For the first six weeks of my stay here I had no place to invite the women to meet, but since the 1st of June have had comfortable quarters and room for my work. Try to make my home attractive and home-like, and thus an object lesson to them. Have established at my home a sewing guild with an average attendance of 58; also a Sunday school with, since the closing of the school, an average of 8 children. Outside the guild, since the 1st of June, have had 191 visits from Indian women.

I am trying to introduce a bathroom—have a room in my house where they find all articles for the toilet and where they can bathe and change their clothing. The idea is new to them and works very slowly, by having thus far availed themselves of the opportunity.

Since my arrival have visited 41 different families, those within walking distance four and five times each, and where there was sickness often, always finding some way to instruct and help them. For instance, found a woman with blacking for her stove but unable to read directions, and not knowing how to use it, I blacked the stove, and in my two visits since have found that stove each time shining. This is only one out of many instances I could name.

Blueberry season and diphtheria have rendered the work light for the latter part of July and thus far this month, the former taking so many from home, the latter, on account of my close proximity to the school buildings, shut me off from visiting and from having the women meet.

Respectfully,

M. W. PETICOLOAS.

The COMMISSIONER OF INDIAN AFFAIRS.

REPORTS OF AGENTS IN MONTANA.

REPORT OF BLACKFEET AGENCY.

BROWNING, BLACKFEET AGENCY, MONT., August 15, 1896.

SIR: In compliance with your instructions I have the honor to submit herewith the following report of affairs pertaining to this agency for the fiscal year ending June 30, 1896.

A recapitulation of the census just completed, which I forward herewith, is as follows:

Total population ........................................... 2,092
Males above 13 years ........................................ 481
Females above 14 years ..................................... 409
School children between 6 and 16 .......................... 490

The Blackfeet Reservation is situated in the northwestern part of the State of Montana, and at the present time comprises about 2,000,000 acres of land. The international boundary line dividing the United States and Canada is the northern boundary of this reservation. It is bounded on the south by Birch Creek and on the west by the summit of the main divide of the Rocky Mountains, and extends about 80 miles eastward.
By the terms of a treaty entered into between these Indians and the Government, dated September 26, 1895, they relinquish all claim to the mountainous portion of this reserve (supposed to contain valuable minerals), reserving, however, the right to use the water and timber on same.

This ceded portion is estimated to contain about 700,000 acres, for which they receive a consideration of $1,500,000. This amount, together with the sum still due them by the Government on an existing treaty, will keep these Indians well provided for during the ensuing twelve years, at the expiration of which time they will be well able to take care of themselves without further aid from the Government.

Surveyors, together with a large force of Indian laborers, are at the present time engaged in establishing the western boundary of the reservation, cutting off the ceded portion. On account of the roughness of the country and the heavy bodies of timber that must be encountered, I do not think it possible that the survey can be finished this year, as in the course of two months the weather will be such that all work will have to be suspended until next summer.

These people, locally known as "Piegans," are a tribe of the Blackfeet Nation, the other branches of which reside in Canada. When I first came to Montana the Blackfeet were the largest and most aggressive body of Indians in the Northwest. They controlled a vast territory of mountains and prairies, extending practically from the North Saskatchewan south to the Yellowstone and from the Rockies eastward for more than 300 miles.

In those days the Blackfeet (that is, the men) were industrious only in that they were continually occupied in making war upon surrounding tribes and in hunting to supply their families with meat and robes. So long as the buffalo lasted they were a free and independent people, and every want their primitive life required was easily obtained. Then the men did no work beyond the mere killing of the game; all the drudgery fell to the women. Returned to his lodge from the chase, the man reclined upon his couch at ease, while his wives cut the wood for fuel, and performed all the menial and severe work there was to be done, besides waiting upon him. They even took off and put on his moccasins for him while he lazily smoked his pipe or chatted with his friends. I am glad to say that with these people that day is past; the women now attend only to their household duties, leaving the hard toil to the men.

Upon the disappearance of the buffalo the Piegans passed through a period of distressing want—450 of them dying in one winter from starvation. At last the Government was brought to recognize their needs, and in May, 1888, bought of them a large tract of prairie land for $1,500,000. Shortly afterwards I was appointed as their agent.

When I took charge of the Piegans a few of them were living in low, ill-shaped cabins surrounding the agency. The majority, however, still clung to the lodge and the old camp life, and were located in groups on the streams nearby. All of them wore blankets and the old-time costume. They had done no work, except that a few of them had assisted the farmer in caring for a 40-acre plot of cultivated ground.

At present all the men wear the clothes of their white brothers, and the women are fast discarding their native dress for the more becoming one of their white sisters, and that they are industrious people I will attempt to prove to you.

In 1890, 900 head of heifers were issued to the Piegans, and they made the first start toward earning a living. At first it was uphill work. It was difficult to get them to break up the communal life and scatter out, each one for himself, and build a home on some favorable location. Many of them went willingly, but others only after they found that so long as they persisted in the old ways, the agent would give them nothing beyond their bare rations.

They were given plows and other implements, and each family was urged to break up a few acres of land and plant potatoes and the hardier grains. Farming, however, in this high altitude has proven a failure. During the five years that I have had charge of these Indians it has been repeatedly demonstrated that this reservation is not adapted to agriculture, and, although the Indians have made faithful efforts each year, the results have been invariably the same, yielding little or no return for the labor spent. With liberal appropriations for the construction of irrigation ditches, hay can be raised in large quantities, and in that manner we can make a success of cattle raising.

Since 1890, several more issues of cattle have been made, in all about 10,000 head, and at the present time there are 20,270 head on this reservation owned by these Indians. To care properly for this large number of cattle, each family has built roomy and comfortable sheds, and every year large quantities of hay are cut and stored to be fed out during the winter storms. Two hundred mowing machines are now in the field running steadily from morning until night.
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