

Livestock in the compound - a community problem

It's not a new problem but it has been getting worse. Homeowners complain of damaged sprinkler systems, lawns and shrubbery and livestock owners complain of inadequate fencing and unfair fines. The court is caught between with an ambiguous ordinance to enforce.

And the cattle and horses munch on.

In a meeting called by Judge Irene Wells and held the evening of October 26, the many sides of the stray livestock problem were presented and discussed. Representatives of the Tribal Council, the BIA, the Land Use, Law and Order, and Range Committees, and the loosely formed Tenino Cattle Association gathered to air their opinions and try to come up with a cooperative solution to the problem.

Tribal Law and Order Ordinance 33 deals with livestock within the "city limits." It specifies that livestock must be kept outside a fence at the compound boundary and that livestock owners must control their stock. Matters had come to a head when Judge Wells began enforcing this ordinance with fines - \$5 a head and \$1 a day - for trespassing livestock that were apprehended and rounded up. Such livestock are impounded and fed and therefore charged "room and board" as spelled out in the Ordinance.

Livestock owners maintain that fines are unfair until such a time as the fencing is repaired, a matter many owners have taken into their own hands. However, continual damage to the fence by horseback riders and motorcyclists makes maintenance of the fence difficult, and the problem of open gates, creek crossings and insufficient cattle guards might further destroy the effectiveness of fencing.



WHO, ME?

The central issue seems to be whose responsibility it is to maintain the fence. Traditionally the BIA (Plant Management) and the Tribe (Utilities) have patrolled and repaired the fence, which stretches along the north side of High-

way 26, south across Shitike Creek, around West Hills, across Tenino Creek, north along the ridge and back to the highway.

Recently the Tribe and BIA have found repairs futile in the face of damages. Live-

stock owners feel similarly - some have repaired their own fences but some have given up. Discouragement seems to reign.

The Ordinance does not specify responsibility. It refers to a "fence" but does not indicate whether the function of such a fence is to actually keep cattle out or to merely mark the boundary of the compound.

Judge Wells has interpreted it to be a boundary, with responsibility for keeping livestock out on the owners' shoulders. However, the livestock owners seem to feel that they are not completely responsible for the straying of their stock until the Tribe or the BIA provides an adequate fence.

Judge Wells stated that apparently "the Ordinance needs to go back to Council for clarification." In the meantime another ordinance concerning the damaging of fences will be enforced. "Everyone should take some responsibility, including the parents of the kids who are cutting the fences," said Judge Wells.

It appears that Judge Wells will continue to charge fines, although she says she will "bend over backwards" for the livestock owners. She intends to continue informing owners when their stock has been found trespassing. If they retrieve the animals immediately, she feels a fine would be unwarranted, considering the condition of the fence. Excessive delay in removing the stock would necessitate a fine. Some livestock owners maintain that it's difficult to respond immediately, especially when they have full-time jobs or other obligations.

General Manager Ken Smith said he would get together immediately with the Tribal Council to look at the fence and make a repair estimate. Tribal Council Chairman Zane Jackson questioned how many times the Council could rightfully go to the tribal members for money for continual repair of the fence. He suggested to the Tenino cattle owners that establishment of a range unit might mean that they could more easily assume at least partial responsibility for fence maintenance because they would be entitled to federal funds.

While it appears that moves might be made toward building a sturdier fence, perhaps even of the Cyclone type, Tribal Attorney Bob Nash stressed the importance of defining maintenance responsibilities after the initial construction. Nash leaned in the direction of favoring the use of the fence as a boundary, with control of the livestock (and therefore some fence upkeep) especially when it is growing and the boundaries are always changing, said Nash. It could be argued by cattlemen that the open range was there first and the community should fence out livestock.

Livestock owners did appear to indicate a willingness to cooperate by trying to control their animals while the fence is still down, although they felt that fines would be inappropriate. It is not clear how they stand on future fence maintenance, but attempts have been made to establish a range unit in order to address such concerns.

Those who are suffering property damage and generally finding the livestock to be a nuisance, may be reassured by the fact that the community is attacking the problem. However, with the many issues involved it may take awhile for all the details of an appropriate action to be worked out.

Tribes act on fish pact

It has been two weeks since the Bonneville Power Administration entered into a pact with Warm Springs and three other tribes to preserve and enhance the Columbia River fishery.

Since then a technical staff consisting of members of the four Tribes has met to formulate project recommendations and determine procedures for gathering the input of other parties involved in fishery use and management.

At the same time the Oregon Fish and Wildlife Commission continues to be dismayed about the BPA's "lack of coordination with state agencies in developing the bilateral agreement with the Indians."

In conjunction with the Pacific Northwest Regional Commission, of which Governor Straub is a member, the Fish and Wildlife Department has sponsored the drafting of a revised agreement which is currently being circulated among the governors of the three northwest states, the BPA, and the Tribes.

The progress of such actions will be covered by Spilay Tymo. Following are excerpts from the original Memorandum of Understanding signed October 13, outlining objectives and responsibilities.

Statement of Purpose

The purpose of this Memorandum of Understanding is to forge a partnership among The Tribes and BPA for undertaking a pilot program aimed at helping to restore the Columbia River anadromous fishery. We intend to conduct this program on a biologically sound and fiscally responsible basis, in coordination with all other fishery interests for the betterment of the region as a whole. This Memorandum of Understanding shall be carried out in a manner compatible with any subsequent coordination agreement which may be executed with the Pacific Northwest Regional Commission or whatever entity (ies) its members may designate.

Objectives

The objectives of this joint program are:

A. To assure that programs approved compliment and strengthen those carried out under the authority of the Pacific Northwest Regional Commission and other resource agencies;

B. To develop funding procedures that can support a flexible ongoing program;

C. To assist The Tribes in the development of their fishery technical capability and to assure their equitable participation in regional fishery planning and decision-making;

D. To strengthen BPA involvement in fishery mitigation commensurate with its present and future level of financial obligation to these activities;

E. To identify initially a specific pilot project or projects which promise measurable results in the near term (2-4 years) and which have regional application;

F. To consult and coordinate with other resource and user entities in identifying and implementing projects, and in assessing their results;

G. Within the confines of

this Memorandum of Understanding, to share equally in the decision-making process, but to give The Tribes direct programmatic responsibility thereby minimizing the need for BPA to enlarge its staff.

Responsibilities

In carrying out this joint program and any projects thereunder, The Tribes will be responsible for:

A. Assessing their own and other technical resources and, if advisable, obtaining additional professional advice and assistance.

B. Consulting with all parties involved in propagation, management, and harvesting of the Columbia River anadromous fishery;

C. Identifying specific projects and, with BPA concurrence, implementing such projects in a coordinated regional context;

D. Providing approximately 20 percent contribution for a first-year pilot program.

BPA will be responsible for:

A. Supervising, in concert with The Tribes, the selection, implementation and assessment of specific projects with a regional application and regional concurrence;

B. Exerting its best efforts to improve the fishery, without involving itself in the regulation or user apportionment of the resource;

C. Clarifying BPA's present administrative authority to participate directly in the funding of such a fishery mitigation program. If such capability is lacking, BPA will use its best efforts to obtain legislative funding authority;

D. Subject to obtaining such authority, providing not less than 80 percent funding of a first-year pilot program.