

Tribal structure, self-governing powers sometimes confusing

Many outsiders looking in on the Warm Springs reservation are sometimes confused by the organization that they see. They are used to dealing with state and local governments, corporations and businesses in their own communities. Indian tribes are unique organizations and the Warm Springs tribe is no exception. Outsiders should not feel alone as tribal members, too, are sometimes confused by the organization and do not fully understand the origin of the governmental structure and how it got to where it is today. Hopefully, the following will clarify the whys and hows of the Confederated Tribes of Warm Springs as we know them today.

The Confederated Tribes of the Warm Springs Reservation of Oregon is a confederation of three Indian tribes; the Warm Springs, Wascos and the Paiutes. In 1855 the United States signed a treaty with the tribes and bands that make up the present Wasco and Warm Springs tribes. That treaty established the present-day reservation and contained, among other provisions, a guarantee that the reservation would be maintained for the exclusive use of the tribes.

Members of the Paiute tribe arrived on the reservation some 20 years later at the conclusion of the Snake Indian wars.

In 1934, Congress passed the Indian Reorganization Act, which was a major milestone in federal Indian law. Underlying the Act was Congress' belief that Indian tribes were best able to govern their reservations and provide for their own futures. The historic federal paternalism that had been the foundation of earlier policy was clearly a failure.

Tribes, in 1938, took advantage of IRA and became self-governing

In 1938 the Warm Springs tribe chose to take advantage of the provisions of the Indian Reorganization Act and adopted a constitution and by-laws formally organizing their tribal government. These documents, approved by the Secretary of the Interior, joined the three tribes into a confederation and provided that the tribe would be governed by a Tribal Council. This Council was composed of eight elected members and three lifetime chiefs, one from each tribe. The Tribal Council was given broad powers of governance over all affairs on the reservation. The people also retained a referendum process by which the people could have a direct voice in government affairs.

In addition to the constitution and by-laws, the Confederated Tribes also obtained a federal corporate charter. The charter was designed to allow the tribes to not only carry out governmental functions such as police and fire, but to also manage their resources in a business-like manner and to conduct business with private, state and federal businesses and entities outside reservation boundaries.

The reservation was isolated before World War II. Progress changed that.

Before World War II, reservation life was very isolated. That isolation was reduced after the war with the construction of U.S. Highway 26 through the reservation and with the first commercial sales of timber. During the 1950s, the Pelton project was licensed and began construction and operation. The Tribes also received compensation from the inundation of their traditional fishing grounds at Celilo Falls and used this money to begin investing in their future. Those funds were used to purchase the original property for Kah-Nee-Ta and to begin its development as well as eventually figuring into the purchase of the mill in 1967.

After the adoption of the constitution and by-laws the tribal organization began to develop and grow. Resources were very limited in those early days and Tribal Council conducted their work with the assistance of the numerous committees they had appointed. The committee system is still in existence today.

However, as activity on the reservation grew it was necessary to begin forming a more sophisticated organization to deal with existing tribal resources. Full time tribal employees were hired to provide governmental services. These employees were generally administered by the General Manager or Secretary/Treasurer of the tribe. The tribe also had to examine ways in which it could manage its resources in a business-like manner. This was done through the establishment of an enterprise system. The tribe's corporate charter was amended to permit the establishment of various enterprises to be operated under a plan of operation adopted by the Tribal Council. Enterprises generally have a board of directors that are responsible for administering the enterprise and reporting to and carry out the orders of Tribal Council. Generally, the tribes have tried to appoint a mixture

of Indians and non-Indians to these boards. Non-Indians have been particularly helpful in providing expertise that may not presently be available within the tribes themselves.

WSFPI is not the only tribal enterprise set up under the corporate charter system.

The tribes depend upon the profits from these enterprises to fund the operation of tribal government. Under the constitution there is limited taxing authority and thus revenue from operating enterprises is critical to the existence of the tribal government.

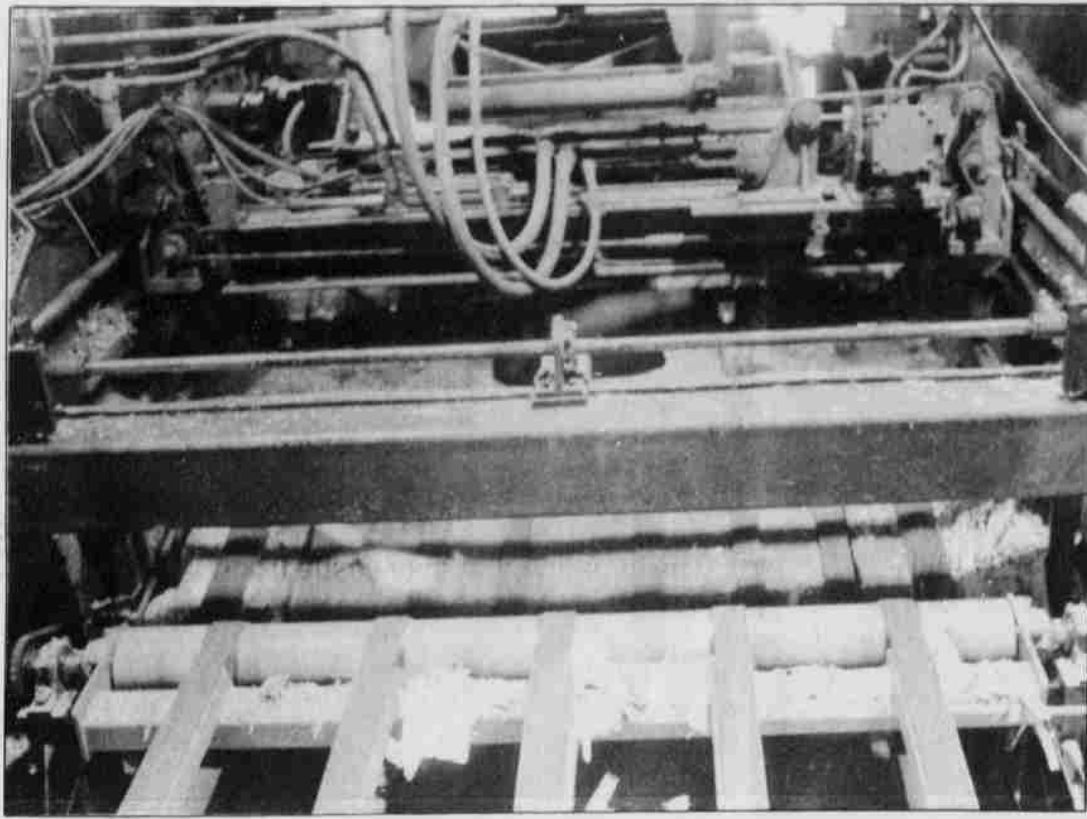
Warm Springs Forest Products Industries is one such enterprise. Others include Warm Springs Power Enterprises, Kah-Nee-Ta Vacation Resort and Warm Springs Apparel Industries.

Warm Springs Forest Products Industries is particularly important because of the role it plays in the overall management of the tribes' forest resource. That forest resource is managed in a cooperative effort between the Bureau of Indian Affairs and the Confederated Tribes. The stumpage payments established by the BIA are also a critical source of revenue for the tribal government. In addition, Indian loggers and haulers depend upon the

continued operation of the mill for their livelihoods.

Many people are unaware that the tribes are a sovereign government with the ability to pass and enforce their own laws. As a general rule, the laws of the state do not apply on the reservation. Rather, tribal law, and in some instances, federal law, applies. However, there are some exceptions. For instance, state

police do enforce traffic laws against non-Indians on Highway 26 and state courts generally have jurisdiction over crimes committed by non-Indians on the reservation. However, it is a fundamental principle of federal Indian law that an Indian tribe possess the sovereignty and power to make its own laws and govern its own territory.



Log size mandates changes

The need for changes in logging practices and manufacturing methods has long been a concern of WSPFI management, Tribal Council and tribal management and some local loggers. All have seen the average log size headed for WSPFI go from over 14 inches to an average of anywhere from six to 12 inches in diameter. As the logs get smaller so go the profits.

The problem of decreasing log size is a fact—but what's the answer? Would a multi-million dollar small-log facility be the cure or should the logs be exported to Japan, putting in jeopardy the many jobs currently held by tribal members. Unfortunately, it's economics versus people—again.

In a February, 1986 letter to Tribal Council, WSPFI General Manager Bob Macy noted that the BIA branch of forestry had projected that over 40 percent of the annual allowable cut on the Warm Springs block would be smaller than 13½ inches in diameter. The Bureau also projected that the number of small logs would continue to increase through the end of the century.

The identification of this problem facing WSPFI led to the employment of Dubal, Beck, Harris and Humphries, an engineering firm, to perform a feasibility study to assist in seeking a solution to the problem. The engineering firm, after a full year, recommended that a small-log facility, preferably a random length sawmill, be installed. The facility would be flexible in that it could produce studs when favorable market conditions occurred.

A two-day in-house test by D, B, H & H at the sawmill operation showed that the end product of small logs was less valuable than the end product of larger logs and that time and piece counts were both critical fac-

tors in efficiency and profitability.

In an availability report earlier this year, BIA forestry reported to Tribal Council that they "assisted WSPFI in developing plans to keep their mill competitive and to maximize income from the processing of timber from their forest while at the same time serve as an employment center for tribal members." It was important that the "mill fit the forest and not try to make the forest fit the mill," the report stated.

The existing facilities are unable to efficiently process the

current supplies and because of that inefficiency, WSPFI is projecting a \$900,000 loss between July 1, 1988 and December 31, 1988. The strike, says Macy, will force a greater loss.

"Without having a proper facility to process the small logs," says Macy, "it will be difficult to look at any cost increases. On the contrary, if the entire cut in the future has to be processed through our existing facilities, we would be faced with other cost cutting measures which could consist of salaries and wages or look to the tribe to subsidizing the operation."

Stumpage: Where does it come from, where does it go?

Stumpage. What is it and how does it fit into the scheme of Warm Springs Forest Products Industries and tribal operations?

Stumpage is the value of timber as it stands in the forest. Stumpage rates are established by the Bureau of Indian Affairs.

Tribal timber revenue comes from two different sources—the McQuinn Strip and the Warm Springs block. That timber on the McQuinn Strip block, which is competitively bid upon, is currently sold strictly to outside mills.

Because all timber in the Warm Springs block is bought exclusively by WSPFI, no bidding occurs. All logging units, both in the McQuinn Strip and the Warm Springs block, have individual appraisals. All characteristics, such as terrain and harvest treatments, are taken into consideration when appraisals are conducted and stumpage rates are set.

One reason to establish stumpage prices is to ensure that the tribe is realizing the fair market value of their timber resource. In addition, this also gives mill management the opportunity to determine operation efficiency.

The sale/purchase agreement between the Confederated Tribes and WSPFI is unique in that the tribes, as owners of WSPFI, charge themselves for their own timber.

Any further questions concerning stumpage can be directed to the BIA Forestry department.



Five M's figured into business' success

On August 29, 1966, tribal members, through referendum, granted the Tribal Council the authority to "borrow, not to exceed \$15 million for the purpose of buying, leasing or constructing and operating timber operating facilities...." In a letter to voters, Council explained that the "woods products complex... probably would replace the sawmill of the Warm Springs Lumber Company...." After allowing for closure of the existing, it was estimated that an additional 550 jobs would be available at the mill with hiring preference being given to tribal members.

However, before the issue went to tribal voters, Tribal Council spent much time discussing the possibilities. According to Council minutes dated in 1965, 1966 and 1967, all options were taken into consideration before finally deciding which proposal would be the most beneficial to the tribal membership.

In early 1965, Council began discussing the possibility of buying and/or constructing a mill on the reservation to process reservation timber. More than one feasibility study was conducted; all studies predicted success.

Though the Tribe eventually purchased the sawmill from Sam Johnson, a Harvey Gunderson figured heavily in the original dealings. His proposal was to build a plywood mill at Dry Creek. The proposal did not include the construction of a sawmill but provided for the sale of

peelable logs directly to other sawmills.

Somewhere down the line, negotiations with Gunderson failed, and the Tribe opted to purchase the sawmill, plywood plant and equipment and the veneer mill and layup equipment from Johnson. A fire in August, 1966 at Jefferson Plywood in Madras, created the opportunity for Jefferson Plywood to help the tribe get into the woods products business. Management responsibilities were given to Persh Andrews, who was a partner of Jefferson Plywood. The 20-year management contract was terminated five years later to "eliminate the 10 percent of net profits paid to Jefferson Plywood as incentive fee and to enter into a contract with" Andrews in lieu of the original contract. Andrews served as general manager of WSPFI until October, 1977.

Throughout the three or so years of discussion, tribal member employment, community economic impact and reservation stabilization were all considered. Five items that would determine the soundness of the business were the five 'M's': money, management, market, manpower and materials.

In a July, 1966 meeting, it was reported that job opportunities to residents in the area were appealing. In addition, said one Council member, "the Confederated Tribes are the true owners of their timber and resources and it is only right to try to get the most from the resources."

Letter supports mill's position on proposals

Dear Employee,

On August 8, 1988, the employees of WSPFI began a work stoppage against Warm Springs Forest Products Industries. Because of the significant and adverse impact of this economic action, the Company felt compelled to communicate with its employees. As you evaluate your individual situation in regards to this action by employees, it is important that you remain aware of the present circumstances at WSPFI.

On Friday, August 5, the Company met with the employees' representatives to respond to proposals on major industry issues. That proposal contained several substantial cost items directly increasing the Company's operating expenses. We explained that due to the present economic situation at the Company, we could not bear the additional costs presented by the employees' representatives.

In support of our response, we made an extensive effort to explain the Company's present financial status. First, our projected loss for the period between July to the end of the year is one million dollars. The mill has not made a dividend contribution to the Tribe since fiscal year 1983, and the projected loss for this year indicates that no such contribution will be made for the fifth straight year.

In addition, related to our projections for the future, the mill's timber supply is in a state of transition. We are looking at a future where our supply will primarily consist of small logs. Because of this, our present operations will not be profitable without new construction. Our goal is to build a new small log mill so that we can adjust to handle the change in our timber supply. We are currently in the evaluation stage of construction a small log mill and one consideration is the company's ability to fund that building. Of course, the addition of a small log mill will benefit both the Company and our employees.

A third consideration which was discussed was the Company's restricted bidding on timber. Because of certain restrictions, WSPFI does not have the flexibility in timber supply that other companies have. This increases the need for the Company to find alternative means to stay competitive and

viable.

In support of our conclusion that the Company was unable to pay the additional costs contained in the employee's representatives proposal, we offered to open our financial records so that our position could be verified. We presented an opportunity for the employee's representatives to have an auditor inspect our financial statement and records. Instead, a work stoppage was initiated.

After thoroughly justifying why the proposal was unacceptable, the Company made a counter-offer. Our proposal was for a one-year extension of the present terms and conditions of employment with a few exceptions. The Company did not propose reduction or a long-term freeze. Rather, we proposed the one-year extension in the hope that we can at that time look at doing some positive things.

We value our employees and remain hopeful that this situation can be resolved. At the same time, we sincerely believe that our proposal is necessary and will have a long range positive impact on both the employees and the Company.

The Company has evaluated its alternatives for continuing operations. Our present lack of production does not move towards resolving our situation, but only adds to the present concerns. Accordingly, the Company has determined that it is necessary to resume operations as soon as possible. Those employees wishing to return to work should notify the personnel office (Woody, at 553-2100) by August 15, and will be notified of a schedule for work. Commencing August 22, the Company will begin filling vacancies created by the work stoppage.

We hope it will not be necessary to hire additional workers. Please recognize that WSPFI has an obligation to the community, its customers, and the Confederated Tribes to continue a viable operation.

Again, as you evaluate your individual situation, we hope you will consider the facts at WSPFI. Whether or not you participate in the work stoppage is your choice alone.

Sincerely,
Robert Macy, Sr.