

Authority over river questioned

TOPPENISH, Wash. (AP) – Tribal game officers at the Yakama Nation Indian reservation have begun enforcing fishing requirements for non-Indians on the Yakama River, but some fishermen are questioning where the reservation boundary lies.

Earlier this month, game officers ticketed nontribal fishermen for angling without a tribal permit along the portion of the river bordering the reservation.

The \$30 permit, in conjunction with state fishing and hunting licenses, allows nontribal members to hunt and fish on open tribal land.

Two fishermen who were

fishing from a boat when they each received \$100 tickets argued they weren't fishing from the reservation side and that the Yakama Nation doesn't own the water.

Tribal officials contend it's not a matter of who owns the water or which bank is fished. It's a matter of reserved rights secured in the Treaty of 1855, said Louis Cloud, Yakama Nation tribal councilman and chairman of the tribe's Fish, Wildlife and Law and Order Committee.

"What we're doing, we're right," Cloud told the Yakima Herald-Republic for a story Monday. "What they're trying to say is our boundary is on the

reservation side. The treaty plainly states that the Yakama River is our boundary – that means the far shore."

Under Article 3 of the treaty, the Yakama Nation is guaranteed exclusive fishing rights to all streams running through or bordering the reservation.

The state is not questioning the tribe's stance on the issue, said Yakima County Prosecutor Ron Zirkle.

"At this point, there's not a state law violation as far as I am aware of," Zirkle said.

Zirkle called both the state attorney general's office and the state Department of Fish and Game, but concluded the mat-

ter is inconclusive until contested.

Even then, a federal court would have to decide the issue because the Yakama Nation treaty is with the federal government.

In any event, the tribe plans to hold firm to its position, said Tim Weaver, an attorney representing the Yakama Nation.

"If push really comes to shove, we could seek some kind of federal trespass," Weaver said. "What happens next is kind of up in the air if these guys show up, there will be a trial in tribal court. If they don't, then the tribe will have to see where it wants to go from there."

Klamaths file suit against PacificCorp for lost treaty rights

PORTLAND (AP) – The Klamath Tribes are suing Portland-based PacificCorp for \$1 billion, claiming the utilities hydroelectric operations in the upper Klamath Basin have caused losses of salmon.

The lawsuit seeks damages to compensate for lost treaty rights in the headwaters of the Klamath River.

Documents filed this week in U.S. District Court this week assert: "The Tribes' traditional reliance upon salmon for subsistence and trade is undisputed; and the existence of dams blocking salmon passage beginning in 1911 is undisputed."

Klamath Tribes Chairman Allen Foreman declined to comment further about the complaint.

Jon Coney, a PacificCorp spokesman, also declined to comment. PacificCorp's lawyers are reviewing it, he said.

PacificCorp operates a 151-megawatt hydroelectric project on the river that includes five dams and generates enough power to serve about 77,500 homes.

PacificCorp has applied to the Federal Energy Regulatory Commission for a renewal of its license, which expires in 2006.

Coney said the project is important because it allows flexibility to meet peak summer energy demands.

Conservationists and others argue the utility should not receive new licenses for an outdated hydropower operation built between 1908 and 1962.

Migrating salmon stopped coming up the Klamath River following completion of the Iron Gate Dam in Siskiyou County, Calif. The dam is not equipped for fish passage.

A 2003 report by the National Research Council recommended evaluating the removal of the dam to aid salmon recovery.

Glenn Spain, an Oregon-based representative of the Pacific Coast Federation of Fishermen's Associations, said the report made it clear "that Iron Gate Dam be considered for decommissioning because of the water quality problems it creates."

Casino profits fund worthy programs

GRAND RONDE (AP) – When the Confederated Tribes of the Grand Ronde put their charitable contributions on hold last month amid questions over how the grants were being distributed, nonprofits around the state had to scramble.

"You go, 'Oh no!'" said Mitchell Jacover, executive director of Raphael House of Portland, a battered-women's shelter counting on \$50,000 from the tribes. "Oregon's had a tough economy. It's got a limited area of philanthropy. When you lose a major player, it's just huge."

Once struggling to stay alive after the federal government sold off its reservation and terminated tribal status, the people of the Grand Ronde Reservation now have one of the top 10 charitable foundations in Oregon, handing out \$4.6 million last year and nearly \$25 million since 1997.

Oregon is the only state where tribal casinos formalize their charitable giving through the state compact that regulates the number of slot machines and blackjack tables, and the Grand Ronde started it with a commitment to share 6 percent of net revenues.

"It was a revolutionary step – it really was – in Indian Country," said former congressman Les AuCoin, who sponsored legislation restoring tribal status in 1983 and a portion of their reservation – 9,811 acres of timberland – in 1988.

"It's an amazing thing to me to see what was a dirt-poor tribe now in a position to not only help its own young people and elders, but to make charitable contributions to the non-Indian community of the state as well."

The people of the Grand Ronde Reservation are from 25 tribes rounded up by soldiers throughout Western Oregon in 1856 and marched to a reservation.

Over the years, the tribes saw their original 69,000 acres sold off by the government. When Congress terminated tribal status in 1954, they were left with the tribal cemetery.

Since the casino opened in 1995, it has transformed the

economy of the northwestern Willamette Valley, injecting 1,500 jobs, most held by non-Indians, in a region struggling to overcome the collapse of the timber industry. Cashing in on the happy accident of being the closest casino to Portland, Spirit Mountain reports net revenues of \$75 million a year, which have financed tribal housing, health care and college scholarships. The tribe's 5,000 members get annual payments of about \$3,500.

Brent Merrill, editor of the tribal newspaper, recalls when one tribal neighborhood was derided as Wine Alley, and his mother walked home from school in a group to avoid racist taunting.

"Now it's a role reversal, with folks coming to the tribe seeking money to fund nonprofits, feed homeless children and provide food for food banks," he said. "It fits into the tribes' traditions. The idea of giving back to the community has always been important to the tribe."

AuCoin and Kris Olson, the former U.S. attorney for Oregon who has served on the Spirit Mountain Community Fund board of trustees since its creation, credit former Tribal Council Chairwoman Kathryn Harrison with the idea, which helped overcome objections that tribes, as sovereign nations, don't have to pay taxes.

Seeking state permission to expand the casino in 1997, the tribes offered 6 percent of profits to benefit the public in an 11-county area. The fund is controlled by eight trustees, four from the tribe and four not.

Tribal Council Chairwoman Cheryl Kennedy said the tribes' sad history has not stopped their desire to share.

"There's a belief that there is a greater justice, there's divine justice," she said. "Just because bad things happen shouldn't – and in our case doesn't – dissuade us from our principles, the values of life. Ultimately in the end it will all be settled."

A survey by the First Nations Development Institute and the National Indian Gaming Association found the 224 casino tribes share that view, giving \$68

million to charities in 2001.

Most state compacts mandate some sort of sharing with local communities, so most charitable giving goes to non-Indian organizations, but an increasing amount is going to poor tribes, said Sarah Dewees, director of research for the institute.

The Shakopee Mdewakanton Sioux Community, with a casino outside Minneapolis, Minn., reported \$7.9 million in grants in 2003, nearly all to other tribes.

In California, tribes must give 7 percent to 13 percent of their net to a fund the Legislature distributes to cities and counties for mitigation.

The Mashantucket Pequot Tribal Nation's Foxwoods casino in Connecticut, the nation's largest, gave \$3.4 million to charities in 2002, said casino spokesman Bruce MacDonald. Over the past decade, the tribe gave \$10 million to the new Museum of the American Indian, \$2 million to Special Olympics and \$5 million to the Mystic Aquarium.

The Spirit Mountain Community Fund grew with little notice until earlier this year, when a Tribal Council recommendation to give \$20,000 to a church to buy a van was questioned following disclosure that the mother-in-law of one council member wanted to sell her van to the church.

Kennedy characterized it as an innocent gesture, but Richard Botteri, a Portland attorney who is the governor's representative on the fund board, said it raised the issue of whether the council would try to exert pressure over the trustees, who are supposed to act independently. The grant was not awarded. Botteri said the board found the application was poorly developed.

Meanwhile, Kennedy said she was reviewing the compact and

realized that it called for an annual distribution, not the monthly distribution that had evolved.

By not holding the money through the year, the tribes were losing out on substantial interest.

Putting grants on hold left groups like Raphael House in the lurch. Botteri said the issues appear settled now, and he expects the grants to resume on a quarterly basis when the board meets in July.



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