

Orchard trip Saturday

The OSU Extension Service continues its Ag on the Road series this Saturday, May 14, with a visit to a cherry orchard in the Dalles. Youth and parents are invited.

The group will travel to an orchard and view farms at The Dalles, to see first-hand how the growers get ready for the cherry harvest. The fruit will still be on the trees, ready

for harvest.

People interested in attending should meet at the tribal Education Building at 9 a.m. on Saturday.

If you are planning to attend, please call the Extension Office at 553-3238. Also, please bring a brown bag lunch.

The group is expected to return at approximately 2 p.m.



Brian Mortensen/Spilyay

Eric Miller picks up loose refuse along Looksh Road north of Warm Springs April 27 as part of the Warm Springs Community Work Force's effort to help clean up community streets. The crew of seven had finished up litter-crew efforts in the West Hills, Elliott Heights, Sidwalter and Seekseequa areas, and had filled 45 garbage bags on Looksh Road by midmorning that day.

News from OSU Extension

West Nile is dangerous but preventable

By Fara Ann Currim
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As the temperatures are increasing, the potential for West Nile virus to infect our horses is also increasing. This relatively new equine illness was discovered in Oregon last summer. The mosquito-borne disease was confirmed in eight of Oregon's counties and, according to the Oregon Department of Agriculture, the final tally for 2004 showed detections of the virus in 32 horses, 23 birds and five humans.

Infected wild birds are the source of the West Nile virus. Mosquitoes bite infected birds, then the infection is transmitted to horses and humans. The disease does not transmit from horse to horse or human to human. A bite by an infected mosquito is the only known route of transmission.

West Nile is a virus carried by mosquitoes that was first detected in the United States in 1999.

The virus, which causes encephalitis, or inflammation of the brain, has been found in Africa, Western Asia, the Middle East, the Mediterranean region

of Europe, and, most recently, in the United States.

Horses are particularly susceptible to the disease, but may be vaccinated against it.

The virus can infect the central nervous system of horses and cause symptoms of encephalitis. Clinical signs of encephalitis in horses include weakness or paralysis of hind limbs, hyper excitability, ataxia (incoordination), and convulsions. Fever is not usually observed.

Not all horses that contract the virus will die from it. Some may just show signs of illness, and recover.

A horse owner needs to make a well-informed decision and vaccinate his or her horses, knowing that if their horse is infected, it may die.

Vaccinations still have to be legally administered by a veterinarian. On April 13th of this year here at Warm Springs, our West Nile vaccination clinic vaccinated 37 horses belonging to tribal members that participated. Vaccinations were done by the visiting USDA veterinarian.

Another aspect of controlling the spread of this disease is to reduce the mosquito breeding sites out on the range or on

your property.

Check for and eliminate any source of stagnant water, the habitat where mosquitoes breed. Old tires, clogged gutters, wading pools, wheelbarrows, bird-baths, tarps, flower pot saucers, pet water dishes, and watering cans are sources of stagnant water. A good rule of thumb is: where water can stand for more than four days is a potential breeding site for mosquitoes.

If you have a pond or other water feature, a relatively new "least toxic" mosquito control method is now easily available in many garden centers. These are called mosquito disks or dunks. Mosquito disks are little doughnut-shaped, time-release rings that can be floated in a pond or water feature. They slowly release B.t.i. (*Bacillus thuringiensis israelensis*), a soil bacteria, tested and found lethal only to mosquito larvae, black flies and fungus gnats. B.t.i. is active over a 30-day period. All other organisms should be unaffected.

Studies show that B.t.i. acts quickly—in experiments, a moderate to high concentration killed half the mosquito larvae within 15 minutes and finished off the

remainder after about an hour.

B.t.i. pesticides are unlike many of the more broad-spectrum pesticides, in that they only kill certain groups of insects. Michigan State University researchers test B.t.i. over a three-year period in the field and laboratory for possible impacts on "non-target organisms", other aquatic organisms besides mosquitoes, black flies and fungus gnats. They observed no negative impacts on other aquatic insects including stoneflies, mayflies, dragonflies, caddis flies or other aquatic flies such as crane flies. As with all pesticides, it is imperative that users follow label instructions carefully.

If you are outdoors a lot, you may be tempted to douse yourself with DEET, a potent and popular insect repellent, to protect against disease-carrying mosquitoes. But DEET can pose health risks, so make sure to follow label instructions, advise OSU toxicologists.

The OSU Extension office is giving away B.t.i. dunks to tribal members. Call our office at (541) 553-3238 for more information, or stop by at the Education building, Warm Springs.

Workshop on eastside forests

If you are a family forest owner with a small or large acreage, a rancher, logger, contractor, teacher or anyone interested in learning about the ecology and management of eastside forests, then this workshop is for you.

The workshop will last a day and a half. The instructors will use the newly published Ecology and Management of Eastern Oregon Forests: A Comprehensive Manual for Forest Owners.

For more information contact OSU extension, Warm Springs, 553-2338. Workshops are on Fridays and Saturdays as follows:

May 20 and 21 at the LaPine Rural Fire Department, 51550 S. Huntington Rd., LaPine.

June 3 and 4 at the Sumpter Nugget, 228 Mill St., Sumpter.

June 17 and 18, Elgin Community Center, 260 N. Tenth St., Elgin.

Training teaches tractor safety

Tractor safety training for Central Oregon youth is being offered Monday through Wednesday, June 20-22 in Madras. This certification is for youth ages 14-17. Minors under the age of 18 are required to complete and pass

a tractor safety training program in order to operate power-driven farm machinery, unless they are working for family members. To register, contact the OSU Extension Service Office of Warm Springs, 553-3808.

Community meeting: Monday, May 23, to discuss proposed additions to the Warm Springs Commercial Code. 5:30 p.m. at the Community Center Social Hall. For information call Shawnele Surplus, advocate, 553-3148.

School to scrap mascot

ENTERPRISE (AP) — For most of a century, a caricature of an American Indian has represented the Enterprise High School Savages in this town in Oregon's remote northeast corner.

No more. The school board has voted to approve the student body's request to have the nickname and mascot changed to the Outlaws, ending eight years of wrangling. Superintendent Brad Royse said he was pleased with the students' decision. "I'm very proud of our kids, and proud to be their superintendent," Royse said. "It's amazing that sometimes kids have the fortitude to go ahead and tread" where adults won't.

Eight years ago a citizen asked that the Savages mascot be dropped. He said some people might be too close to the 80-year tradition to realize that it offended some people. The board voted to drop the mascot. Contention followed, and at a school assembly Nez Perce elder Horace Axtell addressed students.

He was asked which he found more offensive, the name or the picture, and he pointed to a painting in the gymnasium.

So, the student body was allowed to keep the nickname but asked to choose a new caricature. Students took up the issue again this year. For generations the area was home to the Nez Perce Indians, most famously to Chief Joseph, or Young Joseph.

Fishing rights: litigation can take many years

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This ruling turned out to be very insightful and beneficial to the tribes, as the battle between the tribes and the states over treaty fishing rights has continued to the present day.

U.S. v. Washington

The tribes of western Washington faced similar barriers to the exercise of their treaty fishing rights as those faced by the Columbia River tribes. In 1973, the United States and 14 Washington tribes filed suit against the state of Washington. Judge George Boldt heard this case, and on February 12, 1974 announced his decision. Judge Boldt's decision agreed with and extended Judge Belloni's holding in *U.S. v. Oregon*. Judge Boldt went further than Judge Belloni by stating that the Indians' right to take fish "in common with citizens of the United States" meant a 50-50 split. Thus, under this holding, the tribes were entitled to 50 percent of the annual harvest of each run of salmon passing the tribes' "usual and accustomed" fishing places. Judge Boldt further expressly held that the tribes had the sovereign power to regulate the exercise of treaty fishing rights by their members, provided the tribes were capable of doing so. Judge Belloni later adopted these holdings as part of *U.S. v. Oregon*.

Continuing Conflict

The states of Oregon and Washington continued to resist the federal court rulings protecting treaty fishing rights. During the early 1970s, the tribes were forced to return to the courtroom again and again to enforce

the rulings. Judge Belloni has called the actions of the state of Washington during this time period "disgraceful." In a later case that challenged the substance of the Boldt and Belloni decisions, appeals court Judge Alfred T. Goodwin wrote,

"The state's extraordinary machinations in resisting the decree have forced the district court to take over a large share of the management of the state's fishery in order to enforce its decrees. Except for some desegregation cases, the district court has faced the most concerted official and private efforts to frustrate a decree of a federal court witnessed this century."

Columbia River Inter-Tribal Fish Commission

During the 1970s, the four Columbia River treaty tribes began to recognize the need for a formal organization with technical expertise to assist them in protecting the fishery and treaty fishing rights. Tribal leaders based the structure of the new organization on both the new Northwest Indian Fisheries Commission in Washington, and the traditional concepts of governance practiced by multiple tribes in managing the Celilo fishery. The Columbia River Inter-Tribal fish Commission was formally established in 1977.

New Blood

By the end of the 1970s, *U.S. v. Oregon* had been ongoing for more than a decade. Judge Belloni resigned from the case because he no longer felt he could be unbiased. "It became frustrating to me, personally," said Judge Belloni, "to be continually finding points in favor of the Indians when they de-

served it, and then later see that those rulings failed to get the Indians more fish." After long years' experience, Judge Belloni's sympathy for the tribes and frustration with states prevented him from maintaining his impartiality. Federal District Judge Walter Craig was assigned to both *U.S. v. Oregon* and *U.S. v. Washington* after Judge Belloni resigned and Judge Boldt retired.

In 1980, Howard Arnett joined the Karnopp Petersen as a tribal attorney. After joining the firm, Howie took over responsibility for the Treaty fishing rights litigation from Dennis Karnopp and has continued as lead Tribal Attorney on Treaty rights matters, which now includes the Tribe's participation in *U.S. v. Washington*, ocean fishing litigation, the U.S.-Canada Pacific Salmon Treaty, and environmental litigation intended to protect the salmon and steelhead runs on which the Tribe's 1855 Treaty fishing rights depend.

The ocean fishery

The ocean fishery is regulated by the Pacific Fisheries Management Council and the North Pacific Fisheries Management Council. These councils propose harvest management plans, which then go to the Secretary of Commerce for review and approval. When the councils refused to recognize any tribal treaty right to salmon before they enter the Columbia, the tribes tried to work through their trustee, the federal government, to encourage better management of the ocean fishery. When that failed, Warm Springs filed a lawsuit against the Secretary of Commerce in May 1979. The three other treaty tribes joined the lawsuit as plaintiffs. In 1982, the lawsuit was

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broadened to include the state of Alaska as a defendant as a way to gain leverage over Alaska fishermen harvesting large numbers of Columbia River fish. In 1984, Canada and the United States signed the Pacific Salmon Interception Treaty. This Treaty established a Pacific Salmon Commission to administer the Treaty. The U.S. allocation of the Commission allocates harvest between Alaska and Oregon Washington and the tribes.

U.S. v. Oregon then allocates the harvest between the states of Oregon and Washington and the Columbia River tribes. The Pacific Salmon Treaty Act of 1985 acknowledged the tribes' regulatory authority by giving the tribes one of three voting positions on the U.S. Commission. Alaska also has a voting position, and Oregon and Washington share a voting position.

Columbia River Fish Management Plan

In 1988, at the urging of Judge Craig and after several years of negotiations, the parties to *U.S. v. Oregon* concluded a comprehensive fisheries management and production plan for the Columbia River, called the Columbia River Fish Management Plan or "CRFMP." This agreement implemented the *U.S. v. Oregon* and *U.S. v. Washington* court rulings by insuring that Warm Springs and

the other Columbia River treaty tribes would have the opportunity to catch 50 percent of the salmon passing their treaty reserved fishing places. The CRFMP also counted the salmon harvest in the Pacific Ocean against the non-Indian share, consistent with the court rulings.

The tribes considered the CRFMP to be a success, although it expired in 1998. Nonetheless, the parties to *U.S. v. Oregon* have continued to operate under the framework of the CRFMP and have several times extended its provisions on a short-term basis as they continue to work on a new long-term plan.

Treaty Fishing Today

After continuing litigation and negotiation in *U.S. v. Oregon*, Warm Springs and the other Columbia River treaty tribes have generally achieved a fair share of the existing runs for tribal fishermen. However, as salmonid populations continue to diminish, the actual number of fish in that "fair share" is dwindling as well. The treaty fishing rights cases have brought dramatic change and led to the establishment of sophisticated fish and wildlife departments among the various tribes, as well as the establishment of CRITFC.

The next era of treaty fishing litigation may very well be the establishment of the right of tribal members to continue to fish for generations to come. This can only be achieved through extensive conservation efforts. As long-time Warm Springs fish committee member Delbert Frank has said, "Fifty percent of nothing is still nothing."