

Bill to nullify 'Huntington treaty'

The bill to nullify the 'treaty of 1865' is making its way through the federal legislative process. The bill has bi-partisan support, having been introduced last year in the House by Rep. Greg Walden (R-Hood River) and in the Senate by Sen. Jeff Merkley (D-Myrtle Creek).

The hope is that the bill will be finalized and sent to President Trump for signing before the August Congressional recess, said Louie Pitt, director of tribal Governmental Affairs.

Tribal Council and Mr. Pitt have advocated for years that the 1865 'supplemental treaty'—also called 'the fraudulent Huntington document'—be formally repealed by the federal government.

Terms of the Huntington document have never been enforced by a federal court or agency, and the tribes have never recognized it as binding. The document, though, was rati-

fied in 1867—during the chaotic term of President Andrew Johnson—so it has existed in a technical sense, leading to the present action to specifically remove it from the books.

A summary statement in the present Senate bill, S. 832, as introduced by Sen. Merkley, contains this brief summary:

The Indians of the Warm Springs Reservation neither complied with the 1865 treaty nor understood its provisions.

Affidavits taken by the U.S. Department of Justice from Warm Springs Indians present at both the 1855 and 1865 treaty signings show they understood the later treaty simply to provide a pass system for Indians leaving the reservation to exercise their off-reservation rights.

Additionally, the United States, the other party to the 1865 treaty, has consistently ignored the 1865 agreement

and has on numerous occasions over the past 154 years enacted legislation affirming the Tribes' 1855 off-reservation treaty rights.

It appears that no federal government agency has ever asserted that the 1865 treaty was enforceable or had any legal effect.

The Treaty of 1855 created the Warm Springs Reservation while recognizing the tribal right to hunt, fish and gather at usual and accustomed places and on "unclaimed lands" within and beyond the 11-thousand square miles of the Ceded Lands.

Then a decade later the Oregon superintendent of Indian Affairs, one J.W. Huntington, orchestrated the so-called 'treaty of 1865.'

This document—with no apparent compensation to the tribes, and with hardly any tribal signatures—purported to eliminate tribal off-reservation rights as ensured by the Treaty of 1855. A provision in the 1865 document

also says tribal members could only leave the reservation with written BIA permission.

In the mid 1990s the tribes and U.S. Senator Mark O. Hatfield were working on a project formally to clarify the null and void status of the 1865 document. However, then-governor John Kitzhaber was unwilling to support the effort, effectively ending the project.

Current Governor Kate Brown is a supporter of the tribes in correcting this unfortunate episode in tribal-federal government relations.

'Villainously perpetrated'

For more historical context: In 1866, just a year after the 1865 document, Warm Springs Indian agent Jason Wheeler wrote to the Commissioner of Indian Affairs in Washington, D.C.:

Please see TREATY on 5

Western Lands bill could help with water

Another potential funding source for a long-term reservation water solution could come through the pending federal law called the Western Water Infrastructure Act. This bill—introduced by Sens. Wyden and Merkley—would provide an additional \$20- to \$30 million for safe drinking water projects to Western tribes.

The Confederated Tribes' water crisis last year was an inspiration for this bill. The current crisis on the reservation this summer has spurred the bill forward: The proposed legislation this Wednesday, July 29, is expected to enter the 'markup' phase, after which the bill could move out of committee for full Senate consideration.

The water crisis on the reservation—combined with the Covid-19 pandemic—are key points in favor of this legislation: Clean water for washing hands, and the ability to stay at home as much as possible are proven measures for containing the virus.

The Confederated Tribes have been hard hit by the virus since the water crisis. While the initial weeks of the outbreak saw no cases on the reservation, more recently—and especially since the water crisis—the tribes have seen a steady increase in positive testing for Covid-19.

— by Dave McMechan

School activities board adds stricter containment measures

The Oregon School Activities Association Executive Board this month discussed school sports and activities for the 2020-21 school year.

With the uncertainty of school reopening plans in many parts of the state and the timeframe related to those decisions, the board decided to delay the first contest date for Cross Country, volleyball and soccer until September 23.

That date is a month later than previously scheduled. The original first fall prac-

tice date of August 17 remains in place at this time.

New guidance from the state requiring face coverings even when exercising indoors will require further consideration regarding guidance for indoor activities.

Dates can continue to change as schools decide their instructional models.

Additional guidance for Fall contest protocols, including multi-team events, spectator policies, and regional scheduling considerations, will be forthcoming. (*More education news on 5.*)

Water: Federal award would provide temporary fix

(Continued from page 1)

Making the award announcement, Sen. Wyden said: "These urgently needed resources will help restore a dependable and safe water supply for the Confederated Tribes of Warm Springs. I'm glad the tribes have secured this assistance, and I'll keep battling to pass the Western Tribal Water Infrastructure Act that would direct federal funds to help the Confederated Tribes of Warm Springs and other tribes with their water infrastructure."

"Reliable access to clean water is a basic human right—and even more important during this public health emergency," Sen. Merkley said. "By funding the repair of a critical water line, this grant will help deliver the essential service to the Confederated Tribes."

The \$269,000 federal Housing and Urban Development's Indian Community Development Block Grant is from its Imminent



Estimated cost of replacing the treatment plant is at least \$20 million.

Threat program. This program helps tribes with activities to improve, repair or restore safe and healthy environments on Indian reservations and other Native communities.

A recent break in the wa-

ter line over Shitike Creek has brought a third year of boil-water notices on the reservation. State lawmakers then approved \$3.58 million for water infrastructure repairs and upgrades.

Much more in funding—

perhaps tens of millions of dollars—may be needed to fully improve the reservation water system, from the treatment plant to the residences, school, businesses and the organization.

— Dave McMechan

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