

Hunting rights prompt questions



Approximately 20 people, including local property owners, Rep. Dick Harwood, Benewah County Prosecuting Attorney Doug Payne and Sheriff Bob Kirts attended a meeting on trespassing and hunting on the reservation Sept. 8 at the Plummer Library. Another meeting on the issue will be Sept. 27 at the Plummer Community Center. US Attorney Wendy Olson is expected to attend. - Mary Orr

By Mary Orr

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Idaho's U.S. Attorney will visit Plummer Sept. 27 to discuss property rights and hunting on the reservation.

"Someone from my office will be there," Idaho's U.S. Attorney Wendy Olson said. "I am hoping I will be there, but if I am held up in court, another managing attorney from my office will be there."

For some time there have been disputes between landowners and hunters on the Coeur d'Alene Indian Reservation.

"This issue is nothing new," Benewah County Prosecutor Doug Payne said. "It came up previously in 1960, about 50 years after the reservation was open to settlers, and it's been coming up increasingly since."

Many tribal members believe they have the right to hunt anywhere on the reservation, whether or not it is privately owned. Property owners are unsure.

The Coeur d'Alene Indian Reservation is comprised of a mixture of land owned collectively by the tribe and land owned privately by tribal and non-tribal members.

There has been considerable dispute over tribal hunting rights.

In 1960, a hunting dispute between the tribe and non-tribal members was brought to the federal government's attention.

Mr. Payne said that according to the opinion of the Solicitor General of the Department of the Interior in 1960, the Coeur d'Alene Indians did not have a reserved right to hunt and/or fish on private land. Private landowners who do not want trespassers must either post, fence or cultivate the property they wish not to be disturbed.

"A lack of knowledge and education has aggravated the matter at hand," he said. "To get along with our neighbors we all need to understand the law as it stands."

Tribal members do have the right to hunt on the reservation, but if they want to hunt on private land they must have permission. The same is true for non-tribal members. No one has the right to trespass.

Approximately 20 residents gathered at the Plummer Library to discuss the issue Sept. 8.

Many local land-owners said they were unsure of the laws governing hunting and trespassing on tribal and non-tribal lands within the reservation.

"It has been an issue for quite some time on our property and neighboring properties," Mary Ingersoll said. "I think it's important that the meeting was held to inform property owners of their rights. There has been such a cloud of misunderstanding on both sides. I just think its important that everybody is informed."

Mrs. Ingersoll said it isn't just tribal members, but they have had problems with other hunters as well.

Several property owners refused to speak with the St. Maries Gazette Record for fear of retaliation from the tribe.

During the meeting landowners asked what they were supposed to do when they encountered a tribal member hunting on their land without permission.

"This is where it gets complicated," Mr. Payne said. "Neither myself, sheriff or the state of Idaho has the authority to prosecute them for that. The tribe does but has refused to do so."

Indian tribes have no criminal jurisdiction over non-tribal members and states are without authority to prosecute tribal members. The federal government must intervene when there is an issue, Mr. Payne said.

There are a limited number of exceptions to that rule; the most popular include traffic violations on a state, county or city road, he said.

The federal government can prosecute any tribal member for committing state crimes

against non-tribal members. The US attorney's office in Coeur d'Alene handles those cases.

"If you call us we can respond to the scene, collect information and take statements and pass that info on to the FBI," Mr. Payne said. "It is up to the U.S. attorney's office to enforce it. The fact that he is a tribal member doesn't change the law, it just changes who enforces it."

To report a trespasser, Mr. Payne said the landowner should immediately call the sheriff and get a report, then call the FBI and U.S. attorney's office in Coeur d'Alene the next business day.

The tribe's legislative director, Helo Hancock, said the tribe would not comment because they feel they are treated unfairly by this newspaper.

"We see a clear pattern involving the tribe in your newspaper," Mr. Hancock said. "The articles are unfair, biased and frankly defaming of the tribe and until that changes we will be withholding comment."

Another public meeting to discuss property rights and wolves is at 6:30 p.m. Sept. 27 at the Plummer community building.

The U.S. attorney's office will use this meeting to gather information. All parties involved are invited to attend.

"We have strong relationships with all the tribes of Idaho," Ms. Olson said. "It's a complex issue. We want to work with everyone so they all understand who is responsible. The best way to work through who has jurisdiction is to sit down with all the players involved. We are going to sit down and address what the law says at the meeting."