



Newsletter of the Pendleton Bird Club

# Kákya Táymut

KUK-yuh TIE-moot, Umatilla Indian Translation: *Bird News*

Volume 6, No. 9 Pendleton, Oregon September 2008

## *The Migratory Bird Treaty Act of 1918*

The Migratory Bird Treaty Act of 1918 (aka MBTA) was first enacted to implement the 1916 convention between the United States and Great Britain for the protection of birds migrating between the U.S. and Canada. This offered much-needed protection to many bird species during a time when commercial trade in birds and their feathers was popular. Prior law in the U.S. that covered these areas include the Lacey Act (1900) and the Weeks-McLean Law (1913).

Since 1918, similar conventions between the United States and Mexico (1936), Japan (1972) and the Union of Soviet Socialist Republics (1976, now Russia) have been incorporated into the MBTA. Some of these conventions stipulate protections not only for the birds themselves, but also for habitats and environs necessary for the birds' survival.



### Scope of The Act

This law protects all migratory birds, their feathers, nests, and eggs. You may not take, possess, or transport a migratory bird without a special federal permit. Before attempting to control a migratory bird, you must obtain the 50 CFR Depredation Permit from the U.S. Fish and Wildlife Service. This permit allows the taking of migratory birds that have become a nuisance, are destructive to public or private property, or are a threat to public health or welfare. The permit spells out the conditions under which the birds may be controlled and the methods that may be used. Permit holders may control migratory birds that are clearly shown to cause, or are about to cause, serious damage to crops, nursery stocks, or fish in hatcheries. There is a fee for the permit.

### History



Before this law was passed, hunting of non-game birds was basically unregulated. Native birds like Bobolinks and Cedar Waxwings were apparently served in restaurants, and stuffed birds adorned hats. Egg collecting was a popular hobby. Ornithologists targeted rare birds like the Ivory-billed Woodpecker to add to their collections. Then people, including sportsmen, became concerned about wholesale slaughter of certain species. This prompted passage of the Migratory Bird Treaty Act in 1918.

### Monitoring (Such as a Bluebird Nesting Box Trail)

Do NOT remove active nests or eggs of other native birds such as Tree Swallow, Tufted Titmouse, and chickadee or nuthatch species even if you want bluebirds! It is ILLEGAL. Besides, these birds need homes too, and diversity is valuable. If you have competition for a box, put up another. (However, see information on deterring House Wrens, page 2.)

### Enforcement

The U.S. Fish & Wildlife Service is responsible for administering this Act. While the law is not often enforced, penalties are severe - up to six months in jail and a fine of up to \$15,000. Equipment used to pursue, hunt or trap can also be seized.

### Exceptions

- There are exceptions for **non-natives and exotics** such as the **House Sparrow** (*Passer domesticus*), **European Starling** (*Sturnus vulgaris*), **Domestic Pigeon** or **Rock Dove** (*Columba livia*), **Monk Parakeet** (*Myiopsitta monachus* - the only parrot that doesn't nest in cavities), **Eurasian Collared-Dove** (*Streptopelia decaocto*), and **Canada Goose** (*Branta canadensis* - egg and nest removal without a permit, and hunting), and for some captive-bred birds like mallards.
- Under federal law, **House Sparrow** nests, eggs, young, and adults may be legally removed or destroyed. State or local laws may vary. However, you MUST positively identify the House Sparrow nest/eggs/young/adults BEFORE removing or destroying them.
- It is legal to catch and immediately release a bird trapped in a building.
- Empty **House Wren** nests (sticks only *without* a nest cup or eggs) made by male House Wrens can be removed.

- Licensed bird banders are allowed to handle birds and nestlings for the purpose of banding only.



### Special Provisions

All migratory birds (such as ducks, geese, songbirds, gulls, shorebirds, wading birds, birds of prey) are protected with these exceptions:

- Three nonnative birds: the common pigeon (a.k.a. "rock dove"), house sparrow (a.k.a. "English sparrow"), and European starling
- Game birds that don't migrate (such as turkey, quail, pheasant, and grouse)
- Certain blackbirds in certain agricultural situations (see below)

The Migratory Bird Treaty Act has a special provision about blackbirds: "A federal permit shall not be required to control yellow-headed, red-winged, rusty, and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance..."

It is also illegal to collect or have in your possession live native birds (adults or young), bird feathers, nests or eggs, to try to incubate wild bird eggs, to keep nests or eggs even for "show and tell" educational purposes, or to have road-killed birds in your possession without a permit. (Note: **Injured** native birds should be brought immediately to a licensed, trained wildlife rehabilitator who handles songbirds.)

It is illegal to remove or move active nests, even if:

- they are in an inconvenient location
- the babies create piles of poop underneath the nest (like Barn Swallows)
- they build an unsightly nest and drop pigeon and rat remains on the sidewalk in front of an upscale Fifth Avenue housing coop in NYC, ala the Pale Male Red-tailed Hawk.)



It is illegal to transport, trap or kill native non-game adult birds like Blue Jays or Mockingbirds without a permit, even if they are harassing birds at nest boxes or feeders.

Despite the title, the Act protects birds that are not considered "migratory" (like Morning Doves and Chickadees).

Permits are seldom granted to individuals, even for research. A state permit may be required in addition to a federal permit - contact your State game warden/wildlife management agency for more information.

*References:*

[http://en.wikipedia.org/wiki/Migratory\\_Bird\\_Treaty\\_Act\\_of\\_1918](http://en.wikipedia.org/wiki/Migratory_Bird_Treaty_Act_of_1918)

<http://nwco.net/03-LegalIssues/3-1-3-MigratoryBirdTreatyAct.asp>

*Contributed by Jack Simons*

## **CALENDAR OF EVENTS**

### **Bird Club Meeting**

**7:00 p.m., October 9, 2008**

## **BIRDS OF THE DOWN AND UNDER**

**By Sharon and Jerry Como**

**Pendleton First Christian Church  
North Main St., Pendleton**

### **The Big Sit! Bird Count**

**Sunday, October 12, 2008**

Enjoy a few hours or more of relaxed bird counting near McNary Dam at Umatilla or Cold Springs NWR, east of Hermiston. The Pendleton Bird Club will participate again this year in the Big Sit! Bird Count, so put October 12 on your calendar! Want to participate? We hope so! It's a fun day with birding friends.

**For further information, contact June**

**Whitten: 276-9019**

### **Bird Club Meeting**

**7:00 p.m., November 13, 2008**

## **BIRDS OF THE INLAND NORTHWEST & NORTHERN ROCKIES**

Mike and MerryLynn Denny are no strangers to the Pendleton Bird Club as they have presented at several program in the past. At this meeting, Mike will speak about Birds of the Inland Northwest and Northern Rockies. A new book by the same title has just been released and Mike is one of the co-authors. After the program, Mike will have copies of the new book available for sale and will be happy to autograph any copies folks may have. Please join us for what is sure to be an enjoyable evening.

**Pendleton First Christian Church  
N. Main Street, Pendleton**



## **Bird Club Meeting**

7:00 p.m., December 11, 2008

### **NORTH TO ALASKA: BIRDING AT AMBLER**

By June Whitten, Duane Whitten, Betty  
Klepper, and Aaron Skirvin

**&**

### **Annual Bird Club Fund Raiser**

Pendleton First Christian Church  
N. Main Street, Pendleton

## **Christmas Bird Count**

January 3, 2009

For more information, contact

Aaron Skirvin [umatbirder@yahoo.com](mailto:umatbirder@yahoo.com)

or 541-276-1948

## **Bird Club Meeting**

7:00 p.m., January 8, 2009

### **NORTH TO ALASKA, PART 2: BIRDING AT GAMBELL AND NOME**

By June Whitten, Duane Whitten, Betty  
Klepper, and Aaron Skirvin

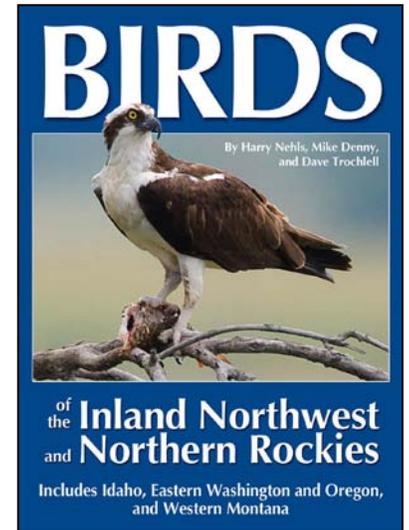
Pendleton First Christian Church  
N. Main Street, Pendleton



There is a new Northwest bird guide hot off the presses entitled "*Birds of the Inland Northwest and Northern Rockies*" that was written to help identify the birds of Eastern Oregon and Washington, Idaho and Western Montana.

This book is a handy pocket size field guide that was written by three long time Northwest birders, Harry Nehls of Portland Oregon, Dave Trochlell of LaGrande, Oregon and Mike Denny of College Place, Washington. The species account

pages provide color photographs of over 260 local birds and have a companion page with key information about each bird. A quick guide to Local Birds provides an easy color-coded means to find birds in the book. There are a number of sections of the book designed for the beginner birder, such as Identifying Birds, Attracting Birds to Your Yard and other helpful resources. The book is currently available at Armchair Books as well as other online sources.



## **BIRD OF THE MONTH – BLACK-BILLED MAGPIE (*Pica hudsonia*)**

Hardly anyone loves a Black-billed Magpie, except probably another magpie. People complain about magpies being too noisy and too aggressive toward smaller birds. While that may be true, there is a lot to admire about magpies. First, they are quite handsome with their black and white plumage and iridescent tail and wing feathers. Second, they are very intelligent, and third, people need to consider how helpful magpies are to man. It is certainly to the advantage of the human population that Black-billed Magpies clean up so much garbage, especially by eating the carrion of road kill off the highways, fields, and forests.

Some examples of their intelligence include the following story. A group of biologists climbed a tree to count and measure magpie eggs in a nest. On subsequent days when the biologists returned for further testing, the magpies recognized them and

started to mob them as they approached the nesting area. If regularly disturbed at the nesting site, the magpies may move the eggs to a new nest, after defending the site aggressively.<sup>1</sup>

Lewis and Clark first encountered Black-billed Magpies in 1804 in South Dakota. They recorded these birds as very bold, entering their tents and taking food from their hands.<sup>2</sup> Today, magpies are relatively tame in areas where they are not persecuted, but will become very wary in areas where they are shot at or disturbed. During the first half of the 20<sup>th</sup> Century, Black-billed Magpies were considered harmful to game birds as they sometimes steal their eggs. Bounties were offered in several western states and several thousand magpies were killed, an estimated 150,000 in Idaho alone.<sup>3</sup> Like most birds, Black-billed Magpies are protected under the Migratory Bird Treaty Act.\* The Act implements treaties and conventions on the conservation and protection of birds that the United States has with Canada, Mexico, Japan, and Russia. \* **[Ed. Note: See Special Provisions to the MBTA on Page 2.]**

Magpie pairs stay together year-round and for life unless one dies, in which case the remaining magpie finds a new mate. They nest once a year, but will try a second time if the first nest fails. The breeding season is from late March to early July. The nest, usually in a deciduous tree, often in brushy areas, is a large, bulky globular structure with the base, dome, and outer walls made of sticks. Inside, mud is used to line the sticks, and then roots, stems, and hair are added to the lining. Since it may take over a month to build this nest, old nests are often repaired and reused.

The female lays as many as 13 eggs, but the usual clutch is about 6. The male feeds the incubating female, and she incubates the eggs for 16-18 days. The nestlings are fed almost exclusively a high-protein diet of insects or carrion. The babies fledge when they are 3 to 4 weeks old and feed with adults for about two months before joining other juveniles.

### **VISIT THE BIRD CLUB'S WEBSITE**

**Bird checklists, ID Challenge, Club Member's Photo Gallery, Newsletter Archive and more.**  
[www.pendletonbirders.org](http://www.pendletonbirders.org)



Their diet is 85% insects, carrion, small vertebrates and about 15% fruit and seeds. They aren't "picky" eaters, and will eat the garbage or dog food if left unattended. They are also known to cache food in small depressions made with the bill in the ground.

Magpies travel and roost in small flocks, often 8 or 10 birds in the group. They do not migrate, but may move to warmer areas in inclement winter weather. They live in the western states, British Columbia, Alberta, and Saskatchewan. There is a small population, separate from these areas, which lives in southern Alaska.

The Black-billed Magpie has a very close cousin, the Yellow-billed Magpie (*Pica nuttalli*), which lives exclusively in western California. They are a separate species but are closely related. The Eurasian Magpie (*Pica pica*) and Black-billed were once classified as the same species, but they are now considered separate species even though they are closely related as well.

Black-billed Magpies are plentiful and one of the birds we can appreciate and enjoy year-round in Umatilla County.

<sup>1</sup> Trost, C.H. 1999. Black-billed Magpie (*Pica pica*). In *The Birds of North America*, No. 389 (A. Poole and F. Gill, eds). The Birds of North America, Inc., Philadelphia, PA.

<sup>2</sup> Ryser, F.A. 1985. *Birds of the Great Basin*, University of Nevada Press, Reno.

<sup>3</sup> Ibid.

*Contributed by June Whitten*

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*Editor's Note: The article below is a follow-up to the introductory article titled, "Bluebirds Abound on the Albee Trail" which appeared in the August 2008 Kakya Taymut. For more detailed information on the 2008 Albee Bluebird Trail see that article.*

### **FINAL 2008 UPDATE ON THE ALBEE BLUEBIRD TRAIL**

We made the fourth and final check on the Western Bluebird nests on the Albee Bluebird Trail on September 14, 2008. It was a very rewarding day as not a single nestling was dead in the nest. On August 3, there were still 25 babies of various ages recorded in 7 nest boxes. Apparently every one of them fledged! The nests were well flattened and showed plenty of use. These 25 fledglings bring the estimated total number of Western Bluebirds fledged to 103 during the 2008 nesting season. On August 3, we

determined that Western Bluebirds fledged from 26 nests along the trail. We estimated 3 fledglings per nest or a total of 78 fledglings. Now, we can add the 25 late fledglings for a grand total of 103 fledgling Western Bluebirds.

All of the boxes are now cleaned out and ready for 2009. A few boxes have new latch nails, and we may relocate a couple of boxes before the next breeding season. The Pendleton Bird Club should be very proud of this successful Bluebird Trail. We still need members' assistance with the Bluebird Trail; please contact June Whitten, 276-9019 or Aaron Skirvin, 276-1948 to find out how you can volunteer a little of your time to help the bluebirds.

*By Aaron Skirvin and June and Duane Whitten*

### **THE BIG SIT – SUNDAY, OCTOBER 12, 2008**

The Pendleton Bird Club will participate again in the Big Sit, a national and international bird-count event. While the rules allow anyone to participate from midnight on Sunday morning to 11:59 p.m. on Sunday night, most people will probably arrive at a site around 7 or 8 a.m. and possibly move to another site before the day is over. You may participate any desired length of time during that full day. This is a fun event where you actually sit in a designated circle with a diameter of 17 feet. Any bird seen or heard from the circle is counted.

There is no charge for participation in the Big Sit and any person or club from any country may register one or more circles. Then a team leader will send the list of birds observed at each circle to Bird Watcher's Digest. One bird species will be drawn from the total list; then, the circles that saw that particular bird will be put into a drawing. The lucky winner will receive \$500 to be used toward improving bird habitat.

The Pendleton Bird Club's circles will again be at Cold Springs NWR and near the Columbia River from the wildlife area below McNary Dam. If anyone would like to establish a circle in a different location, such as McKay Creek NWR, let June Whitten know and the registration will proceed.

Plan to enjoy some good fall birding and fun with other birders on October 12. Bring a lawn chair, binoculars, scope if you have one, snacks or lunch, and possibly hot drinks. The weather could be chilly on count day, so dress appropriately.

Questions? If so, please e-mail or call June Whitten 276-9019 [jwhitten@oregontrail.net](mailto:jwhitten@oregontrail.net).

### **August-September Bird Sightings**

In our area, songbird migration usually peaks in late August and early September. Although great waves of migrating birds are seldom seen, locating species in areas where they normally are not found is a good indication migration is underway. This fact was borne out by many of the sightings reported this period.

#### **Cold Springs**

As well as the songbird migration, shorebirds are also passing through our area as they travel from northern breeding grounds to southern wintering areas. This year Cold Springs Reservoir seemed to be the best place to find migrating shore birds and the following reports are from this area.

On August 22, I (Dave Herr) found 2 **Sanderlings** and 2 **Semipalmated** Sandpipers at Cold Springs. The following day, Aaron Skirvin and June Whitten found two **Solitary Sandpipers** as well as many more common species.

Birding Cold Springs on August 30, Neal Hinds found over 30 species. Shorebirds included **Least** and **Western Sandpipers** as well as many **Killdeer**. Birding the wooded portion of the refuge, Neal located a **Townsend's Warbler** (his first for this area) and a **Nashville Warbler**. Both clearly birds migrating though the area.

I checked Cold Springs September 2 and found a flock of about 150 peeps. The flock included **Western, Least** and a few **Baird's Sandpipers**.

September 6, Aaron Skirvin birded Cold Springs and found about 350 shorebirds including one juvenile **Black-bellied Plover**, one **Semipalmated Sandpiper**, several **Pectoral Sandpipers**, **Baird's Sandpipers** and 3 **Semipalmated Plovers**. Further evidence of songbird migration in the area were Aaron's finds of a **Townsend's Warbler**, a **Red-breasted Nuthatch**, one **Orange-crown Warbler**, one **Pine Siskin** and an "unidentifiable" *Empidonax* flycatcher.

September 9, at Cold Springs I found about the same species as Aaron including 4 or 5 **Pectoral Sandpipers**. Checking the area in the afternoon there were no shorebirds present. Clearly there was a predator in the area, but I was unable to find it.



Checking Cold Springs the evening of September 10, Aaron found quite a few shorebirds including 3 **Sanderlings**, 2 **American Avocets**, several **Baird's Sandpipers** and a couple of **Spotted Sandpipers**. On September 12, Aaron and June Whitten checked Cold Springs, and found few shorebirds but did find 2 **Red-necked Phalaropes**, 2 **American Avocets**, a **Black-bellied Plover** and one **Pectoral Sandpiper**. Checking the area again the evening of September 15 Aaron found most of the same species, but did add 2 more **Black-bellied Plovers**.

Aaron found a "Shorebird Bonanza" when he checked Cold Springs the evening of September 19. Although he noted lighting conditions were poor, he was able to identify two new "County Year" birds, **American Golden-Plover** and **Stilt Sandpiper**. Both these species are usually found in the county each year, however this year we were beginning to think they might be missed. In addition to the above species, Aaron counted 12 other shorebird species including **Killdeer**, **Western**, **Least**, **Baird's** and **Pectoral Sandpipers**, 2 **American Avocets**, one **Black-necked Stilt**, 4 **Black-bellied Plovers**, one **Sanderling**, and 2 **Red-necked Phalaropes**.

### Other County Birding

August 23, Aaron and June found one **Eurasian Collared-Dove** in Stanfield and 5 at Echo. They also noted over **300 Bank Swallows** flying and perched just west of the bridge at Echo. Checking the residential areas in Pilot Rock the following day, Aaron found 3 **Eurasian Collared-Doves** in 3 different locations. Mayanna Kopp also reports **Eurasian Collared-Doves** coming to her Pilot Rock feeder as well as **California Quail**, **American Goldfinches**, **House Finches** and several **Ring-necked Pheasants**. Dolly Robison reports that the **Eurasian Collared-Doves** she has been watching all summer are still being seen at her Hermiston home.

While unsuccessful in his quest to find Mountain Quail in the southern portion of the county on August 24, Aaron did find a number of interesting species including **Savannah Sparrows**, basic plumage **Lazuli Buntings**, one **Lark Sparrow**, **Ruffed Grouse**, **Gray Jays**, one **Cooper's Hawk**, and **Cedar Waxwings**.

Checking Pearson Creek on August 30, June and Duane Whitten found 5 **Wild Turkeys**, 2 **Ruffed Grouse** and a juvenile **Red-tailed Hawk**. However

they too were unable to find any Mountain Quail. September 1, Jack Simons reported seeing two juvenile **Black-crowned Night-Herons** at Mission ponds. He also noted an adult and juvenile **Swainson's Hawk** in the same area.

While walking through the Pendleton Community Park on September 2, Russ and Connie Betts found **American Crows**, **Morning Doves**, **House Finches**, **House Sparrows**, a **Yellow Warbler**, **Black-billed Magpies**, **Red-winged Blackbirds**, two **Dusky Flycatchers** and several **American Goldfinches**. Several days later Connie reported several **American Kestrels**, **Orange-crowned** and **Wilson's Warblers** and an **Osprey** at the park.

Checking the McNary Wildlife Area on September 2, I found several migrating species including **Townsend's**, **Orange-crowned**, **Wilson's** and **Yellow Warblers**, numerous **Western Tanagers**, a **Warbling Vireo** and an out of place **Mountain Chickadee**.

September 5 was a good "woodpecker day" for Jack Simons. Checking the pasture behind his home along the Umatilla River he found a pair of **Hairy Woodpeckers** and a **Northern Flicker**. As he stood watching them, an adult **Pileated** and then a juvenile **Pileated Woodpecker** flew in and landed within 20 feet of him. Quite a morning! On September 10, Jack reported seeing two **Red-breasted Nuthatches** at his home, the first time he has seen this species in his yard. Jack also saw 5 **Turkey Vultures** over Mission Pond the same day.

September 8, Connie Betts reported seeing a raft of well over **100 Ruddy Ducks** on McKay Reservoir. One September 12, Connie reported the **American Kestrels** are still being seen around the Community Park and found a **Swainson's Hawk** sitting on the hillside west of the park. On a walk the following day, Connie reported seeing **White-crowned Sparrows**, **Orange-crowned Warblers**, **Dark-eyed Juncos**, a **Dusky Flycatcher** and possible **Yellow-rumped Warbler**.

On September 13, Aaron birded the Gurdane Road. Some of his better finds included **300 or more Savannah Sparrows**, a few **Vesper Sparrows**, a **Townsend's Warbler**, one **Rudy-crowned Kinglet**, **Spotted Towhee**, **Lincoln's Sparrow** and 11 **Mountain Bluebirds**. However his best find was an **AMERICAN REDSTART** located in a small White



Cottonwood grove along the road. The last time an **AMERICAN REDSTART** was found in the county was in 2005. Returning home between Nye Junction and Pilot Rock he found a **Sage Thrasher**, one **House Wren** and 7 **Gray Partridges**.

September 14, Aaron, June and Duane Whitten made another attempt to find Mountain Quail along the North Fork John Day River. Although they were not able to find any quail they did find a number of interesting species including **Lincoln's Sparrow**, **Townsend's Solitaire**, **Green-winged Teal**, **Pileated Woodpecker**, **Say's Phoebe** and **Clark's Nutcracker**.

Checking McKay Reservoir on September 16, Russ and Connie Betts report numerous **Mallards**, more than **1000 Canada Geese**, **Western Grebes**, **Ring-billed** and **California Gulls** an **Osprey** and a

**Northern Harrier** chasing a small duck over the water. There was still a small raft of **Ruddy Ducks**, but not as large as the one reported by Connie earlier.

You can tell fall is approaching when the **White-crowned Sparrows** and **Dark-eyed Juncos** return to the valley. Although there is still plenty of good shore birding left, it's time to fill the bird feeders and start checking for winter visitors. Please send all your bird sightings to me, Dave Herr at [dsherr1@mac.com](mailto:dsherr1@mac.com) or 276-6413.

**Newsletter Editor: Position Vacant**  
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