

# Spilyay Tymoo

Coyote News



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**Phantom of the Fourth**

Ralph Minnick became one with his creation when he set flare to fuse for the annual Fourth of July fireworks display. Although some of the fuses were short, the action never got quite this close. The special effect was achieved with two negatives. Spilyay Tymoo Photo by Stowell

## With 13 votes to spare Water system passes on second try

The Tribal Council was happy on Wednesday. On Tuesday, July 10, tribal members voted to approve the Deschutes Domestic Water System which had gone to a referendum election for the second time. It passed by a vote of 381 "yes" to 60 "no", with a little over 84 percent voting affirmatively.

But it was a close call. A total of 381 cast their ballots, just 13 more than the number required for a legal election. The tribal constitution specifies that one-third of the eligible voters must turn out for an election to be valid.

Shortly before noon only about 75 people had voted, prompting Margie Tuckta and Marcia Soliz to start phoning people to remind them to vote. But by 7:10 there were still 28 votes lacking, causing a frantic last-minute roundup of voters.

The new water system to serve Warm Springs and Kah-Nee-Ta was proposed to the membership because of prob-

lems with the existing systems. The water source is the Deschutes River with intake, pumping and treatment facilities located at the by-pass channel next to the Dry Creek campground. The Deschutes River has been identified as the only dependable source of quality water available to Warm Springs and Kah-Nee-Ta.

According to the plan, water will be carried up to the Tewee's Butte reservoir from a nearby pump station. The reservoir will be high enough in elevation to allow gravity flow transmission lines to carry the water to new reservoirs in Warm Springs and Kah-Nee-Ta.

The cost of the project is estimated at \$8 million. But preliminary discussions with the Economic Development Administration and Farmers Home Administration indicate a good chance for funding assistance, thus minimizing the use of tribal funds.

## Ocean fishery must heed treaty rights

Indian fishermen on the Columbia River won a major victory Wednesday July 11 when a federal judge ruled that commercial ocean fishery regulations are in violation of federally protected treaty rights. U.S. District Judge William Schwarzer ordered the Department of Commerce to bring regulations into compliance with the law by July 23 or risk closure of the commercial season.

Referring to the inland fishery as facing a "severe crisis," Judge Schwarzer noted that Indians had not been getting their court-approved share of salmon in the river because of overfishing in the ocean. The Commerce Department must regulate

commercial trolling with first consideration to compliance with treaty obligations, said the judge.

The Columbia River treaty tribes filed suit against Commerce Department Secretary Juanita Kreps in April, seeking closure of the ocean fishery which began May 1 for a month and reopened July 1 through September 8. Hearings were delayed in May and June, and on June 28 U.S. District Judge Belloni disqualified himself from the case because of alleged bias in favor of Indians.

Schwarzer, a California judge, was assigned to the case and, according to Warm Springs tribal attorney Dennis

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### Weather

JUNE	HIGH	LOW
29	81	63
30	74	57
JULY		
1	69	56
2	78	44
3	88	49
4	85	62
5	87	57
6	85	60
7	87	54
8	90	58
9	94	58
10	80	56
11	78	54
12		

### Supreme Court ruling

## Boldt Decision upheld, tribes cautious

Last week's favorable Supreme Court ruling on the 1974 Boldt decision sent a cheer up from Indian fishermen in Washington state and evoked cautious optimism from Columbia River treaty tribes.

The long-awaited ruling upheld U.S. District Judge George Boldt's interpretation of treaty fishing rights, specifically the language "in common with." His landmark decision in the U.S. v. Washington litigation was that Indians had a right to 50% of

the catch at "usual and accustomed" stations.

Boldt's ruling did not put an end to the controversy, but in some ways heightened it. Last September Interior Department solicitor Leo Krulitz recommended Supreme Court review of the decision because of "rampant violation." Arguments were heard in the highest court on February 28. The vote on July 2 was 6-3.

Justice John Paul Stevens wrote for the majority, "The language of the treaties

securing a 'right of taking fish...in common with all citizens of the Territory' was not intended merely to guarantee the Indians access to usual and accustomed fishing sites and an 'equal opportunity' for individual Indians, along with non-Indians, to try to catch fish, but instead secures to the Indian tribes a right to harvest a share of each run of anadromous fish that passes through tribal fishing areas."

He went on to write, "An equitable measure of the

common right to take fish should initially divide the harvestable portion of each run that passes through a 'usual and accustomed' place into approximately equal treaty and nontreaty shares..."

The decision also allows that the state of Washington may be ordered to prepare regulations to implement the ruling and that the District Court may assume jurisdiction of the fisheries if the state persists in their violations.

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