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# Spilyay Tymoo

News from the Warm Springs Indian Reser

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Spilyay Tymoo



VOL. 15 NO. 12

P.O. BOX 870 WARM SPRINGS, OR 97761

JUNE 15, 1990

## Coyote News In Brief

### Heath on the job

Roosevelt Heath, after finishing truck driving school is now employed at Deschutes Ready Mix, thanks to the tribal pre-entry work program.

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### McConville to present workshop

Tribal curriculum developer Art McConville will present a workshop at the National American Indian Cultural Curriculum Development Conference in Juneau, Alaska in July.

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### Smith to manage team

Gerald Smith, long involved in local boxing programs, has been appointed as manager of one of two boxing teams to appear at the 1990 Goodwill Games.

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### Commencement held

Madras High School graduation ceremonies were held June 2. Thirty Warm Springs students are among the graduates listed.

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### Martinez selected to attend seminar

Tribal member Jacques Martinez will be one of many high school students to attend the Nevada Youth Energy Seminar at Boral Ridge Resort near Reno June 18-22.

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A four-page special insert focuses on tribal education and the many programs offered to community members.  
**READ ALL ABOUT IT!**

The deadline for the next issue of Spilyay Tymoo is June 22.

## Weather

JUNE HIGH LOW

1	65	36
2	76	49
3	73	56
4	74	46
5	71	50
6	65	54
7	70	56
8	73	52
9	75	50
10	64	48
11	67	40
12	66	49



Nearly 200 people gathered to be captured on film for a life-sized photograph that will be used as part of the tribal museum exhibit. Nearly all were dressed in traditional attire and made for a very colorful picture. For more photographs of the historic event, turn to page 3.

## High court decision affects tribal court criminal jurisdiction

The U.S. Supreme Court May 29, 1990 handed down a decision that may adversely affect tribal court criminal jurisdiction over non-member Indians.

In a 7-2 decision, the court ruled that the Pima-Maricopa Indian Community in Arizona does not have the authority to prosecute a California man accused of fatally shooting a 14-year-old boy. "Indian tribes lack jurisdiction over persons who are tribe members," wrote Justice Anthony M. Kennedy. The decision extended the court's 1978 Olliphant ruling that barred tribes from prosecuting non-Indians for on-reservation crimes.

Kennedy also said that Indian tribes surrendered the sovereign authority to prosecute non-Indians for crimes on reservations when

the tribes accepted the federal government's protection.

Albert Duro, a member of the Torres-Martinez Band of Cahuilla Mission Indians in California was accused of the 1984 killing on the Salt River Indian Reservation near Scottsdale, Arizona. The victim, Phillip Fernando Brown, was a member of a third tribe, the Gila River Indian Tribe.

According to tribal attorney Howard Arnett, Duro was charged in federal court with murder. But for reasons unknown, the U.S. Attorney dismissed the case without prejudice, meaning the case could be brought back to court.

The Tribe, was outraged, and "in frustration", said Arnett, decided to charge Duro with "unlawful discharge of a firearm," the only offense in the tribal criminal code that fit the circumstances. Tribal courts do not have jurisdiction to prosecute felonies such as murder.

Duro's attorney challenged the tribe's jurisdiction to charge a non-member Indian in tribal court and appealed the case in Arizona Federal Court. The Arizona Federal Court ruled that the tribe did not have the jurisdiction to prosecute a non-member Indian.

The tribe then appealed to the 9th Circuit Court of Appeals. The Court of Appeals overruled the Federal District Court of Arizona decision and ruled that the tribe did have jurisdiction over non-member Indians. Duro appealed that decision.

The U.S. Supreme Court accepted the case in order to resolve a conflict between the Ninth Circuit court's ruling in the Duro case and the Eighth Circuit Court of Appeals ruling in a separate case several years earlier that Indian tribes did not have criminal jurisdiction over non-member Indians.

In their ruling the Supreme Court noted that the tribes "also possess their traditional and undisputed power to exclude persons whom they deem to be undesirable from tribal lands." The court further defined this exclusionary authority by stating, "Tribal law enforcement authorities have the power to restrain those who disturb public order on the reservation, and if necessary, to eject them. Where jurisdiction to try and punish an offender rests outside the tribe, tribal officers may exercise their power to detain the offender and transport him to the proper authorities."

Arnett stated that Warm Springs is "more affected than any tribe in the Northwest because there is no state criminal jurisdiction on the reservation." Warm Springs does not fall under PL 280, which extends state criminal jurisdiction on Indian reservation. "Most other reservation in the Northwest fall under PL 280...There has never been any attempt by the state to assert their jurisdiction over criminal misdemeanors on the Warm Springs reservation."

Arnett, chief of police Jeff Sanders and others will be making recommendations to Tribal Council as to long- and short-term solutions to the issue. Several options are available. One to possibly consider is to more actively enforce the existing exclusion policy.

Another option is to seek Congressional legislative correction to the decision. In their decision, the Court wrote that if "the present jurisdictional scheme proves insufficient to meet the practical needs of reservation law enforcement, the proper body to address the problem is Congress, which has the ultimate authority over Indian affairs."

Yet another option is to estab-

lish a CFR Court. A CFR Court is operated by the BIA, works in conjunction with tribal courts and often exists on reservations that have no tribal court or where the tribal court has failed. A CFR Court does not fall under the Supreme Court's decision.

This most recent decision does

not mean that non-member Indians will get away with crimes on the reservation. Warm Springs Police will cite individuals, and if necessary, will detain them until they can be turned over to the proper law enforcement agency, whether those authorities are state, federal or local.

## Pi-Ume-Sha schedule noted

The 21st annual Pi-Ume-Sha Treaty Days celebration will be held June 22, 23 and 24 in Warm Springs. The powwow and related events recognize the signing of the June 25, 1855 Treaty between the Columbia River Indian tribes and the U.S. Government.

A total of \$12,300 will be paid out to dancers and drummers.

Friday's events will begin with the grand entry at 7 p.m. The Pi-Ume-Sha queen will be crowned. The little girls round dances and little boys war-dances for children six and under and seven to 11 years of age will be held. Five semi-finalists will be picked each session for mens and womens individuals. Saturday will feature two grand entries, the first being at 1 p.m. and the second at 7 p.m. Prior to the afternoon session, a traditional dress parade will be held. The parade will begin at Warm Springs Elementary at 10:30 a.m.

Following the grand entry, the teen girls round dance and teen boys fancy dance will be conducted. The Kussa Round dance for those women 60 years and older and Ol' Warriors War Dance for men 60 years of age and older will be featured. All participants are invited to dress in full dress. Native American Veterans will be honored as well.

The Saturday evening session will feature girls traditional war

dance, boys straight war dance, womens team round dance and mens team dance open contest.

The Sunday session will begin at 2 p.m. with mens straight dance, womens individual straight war dance, mens individual fancy war dance and womens fancy shawl dance.

Other activities planned for the weekend include softball tournaments, the Frybread Golf Tournament, the Pi-Ume-Sha Walk/Run and the Pi-Ume-Sha rodeo.

## Slide reactivated

Work on the renovation of the grade seven miles south of Warm Springs looks like it may take a bit longer than originally thought since the discovery of the reactivation of an ancient slide. Workers on the construction site noticed May 28 that segments of a 1,500 foot stretch of the highway had started to drop, causing large cracks and a sunken grade. Dirt and rocks had been added to the section as fill to support a third lane up the grade. Part of the fill has dropped up to four feet while other sections of the existing highway have cracked open. Crews have patched the affected highway and added additional rock to the sunken fill material.

Continued on page 2

## Too few voters

Just under 24 percent, or 372, of the 1,563 eligible tribal voters turned out for the June 5 referendum election. The turnout was 149 short of the necessary 521 required to validate the election. The two referendum items will be presented again to voters Tuesday, July 10.

Voters cast their ballots as follows:

Wellness Center: 275 for; 83 against; 12 spoiled ballots.

Housing Units: 222 for; 139 against; 11 spoiled ballots.

Vital statistics manager Madeline Queahpama attributed the low turnout to the age of the voters. "We have a real young voting population...The majority of our voters are between the ages of 21 and 30." Queahpama estimated that each election costs nearly \$4,000 including printing and postal costs and wages for the election board.