

## Big decision on casino at the Gorge

By Sid Miller  
Spilyay Publisher Emeritus

The natural resources of the Confederated Tribes have been dwindling away, namely the timber, which has been the main source of income for the tribes.

The Confederated Tribes have been searching for other means of income. Several avenues have been studied and with the gaming casinos, which are the main source of income in Indian country, it was decided to enter that field. In order to compete in that area a suitable location must be established.

There were several sites mentioned and since the Confederated Tribes had federal land at Hood River, that was a site first discussed. However, there were several set backs and opposition to that location, so other locations were mentioned, and Cascade Locks came into the picture, but in order to establish a casino in that area, there were several obstacles to be taken care of, like purchasing the land, and one of the biggest was to convince the governor to allow the tribes to build there. After some time the governor decided to allow the tribes to build a casino there.

We are very fortunate to have the governor of Oregon, Ted Kulongoski, to work with us on constructing the casino at the site, also very fortunate that the residents of that community are in favor for the tribes to construct the casino there. It will boost their economy in all sorts of ways. It will bring in employment for its citizens and make it a buzzing little city once again.

A casino in the Gorge at Cascade Locks, a reality for the tribes who have been struggling economically recently. This compact must be approved by the Secretary of the Interior. A casino right near the city of Portland, and along a major freeway from the east.

Locally there have been some mixed feelings about a casino in that area. One is the employment situation, some local members feel that it's too far away to work at the casino, too far for members to do some gambling at the casino. Some feel that with the casino that far away from our home base there could be misuse of funds and income.

About the employment situation at the Indian Head Casino at the present time, there are just a handful of locals that are employed and most don't stay very long. The percent is very low on those who have been employed at the Indian Head Casino, who have been there steady.

Transportation has been a big factor just to Kah-Nee-Ta. As for the locals who object that it's too far to do some gambling, the majority of gamblers rush for the penny machines as it is, and there are no big pay-offs there at all. (Maybe they all beat me to those machines, "Aye.")

With good management the casino can bring in a substantial income and as far as mistrust and misuse of funds, a person can get into a lot of trouble when caught and could spend a lot of time in prison. Yep! If everything goes well we the tribes will benefit from all of this and it is very possible that we can bring in enough income to where we could set up programs locally to employ our own people. There are all kinds of opportunities just sitting there waiting to be put into action.

Since the membership voted the casino to be built at the Gorge, we should all proudly accept the fact and back the project whole-heartedly. We should thank the Governor, Ted Kulongoski, for his decision on this matter. It was a very big and serious decision for him to make.

And we shouldn't focus on just today, but look down the road to improve conditions for future generations to come. We are the pioneers on this venture of constructing our casino in that location off the reservation land, and be willing to back what it takes to get the project in motion. We can do it. Ahh-Naa-Chi-Toon!!!

## Treaty fishing rights have long legal history

On June 16, the law firm Karnopp Petersen LLP will host a dinner in celebration of the 50th anniversary of its service to the Confederated Tribes. All tribal members are invited to attend the celebration, which will be held at the Warm Springs Museum at 5 p.m. In honor of this enduring relationship, the Spilyay is presenting a series of articles highlighting cases and events that embody the shared history between the Tribes and the law firm.

### Treaty Fishing Cases

#### Treaty Language

On June 25, 1855, the seven tribes and bands of Wasco and Walla Walla Indians signed the "Treaty with the Tribes of Middle Oregon," ceding aboriginal title to approximately twelve million of acres of land to be opened for white settlement. With great foresight, the tribal leaders fought hard in the treaty negotiations to include protections in the treaty that would ensure that the Indian way of life would continue. The treaty includes the following language:

"The exclusive right of taking fish in the streams running through and bordering said reservation is hereby secured to said Indians; and at all other usual and accustomed stations, in common with citizens of the United States, and of erecting suitable houses for curing the same; also the privilege of hunting, gathering roots and berries, and pasturing their stock on unclaimed lands, in common with citizens, is secured to them."

### Gathering to discuss forestry project

The Timber Committee will host a scoping meeting Thursday evening, May 12, to discuss the proposed reduction of hazardous fuel loads in the low elevation forest. These treatments are being proposed to reduce the threat of wildland fire to local communities.

The meeting, beginning at 6 p.m. at the Simnasho Longhouse, is scheduled to gather tribal member comments regarding these efforts.

The proposed project concentrates on areas near County Line, Sidwalter and the Warm Springs Community. Most of the treatments will involve thinning of overstocked stands, mowing and juniper removal.

Staff from the Natural Resources and Forestry branches will be on hand at the May 12 meeting to answer questions.

Many Northwest tribal leaders were concerned that the whites would not honor the promises made in the treaties. Isaac Stevens was the first governor of the Washington Territory, and he negotiated many treaties with Pacific Northwest tribes during the period that the 1855 treaty was signed. Stevens responded to the Indians' concerns by declaring:

"My brothers and myself have talked straight to the council. You and your children will not be troubled in the use of your streams. The Indians will be allowed to take fish from them at the usual fishing places, and this promise will be kept by the Americans as long as the sun shines, as long as the mountains stand, and as long as the rivers run."

### Dams

In spite of the United States' promise, the erection of Bonneville Dam in 1938 and The Dalles Dam in 1957 flooded ancient fishing places, the Long Narrows and Celilo Falls, and flooded countless treaty protected "usual and accustomed" fishing sites. The dams also had a devastating effect on the salmonid population. Prior to white settlement in the Columbia basin, biologists estimate the total runs of salmon and steelhead were a minimum of 16 million fish annually. By 1940, the number had reduced significantly, to about 3 million fish. As more dams were built and more habitat destroyed, the population continued to dwindle.

Despite the loss of traditional fishing sites and the dwin-

dling populations, the Confederated Tribes of Warm Springs, as well as the Yakama, Umatilla and Nez Perce tribes, struggled to protect their ancient way of life. The tribes continued to assert their right to take fish under the terms of solemn treaty promises. Meanwhile, non-Indian conservationists began to view tribal fisherman as a threat to the species, while non-Indian commercial and sport fisherman viewed Indian fishing rights as a threat to their interest in the fishery. The states of Oregon and Washington responded to these concerns by taking the position that the states had the authority to regulate all fishing in the basin, including treaty protected Indian fishing.

### State Regulation

In 1966, the states began to aggressively enforce state regulations against tribal fisherman. Tribal attorneys spent countless hours defending tribal fishermen in state court. However, Indian treaty rights are really a matter of federal law, and the only long-term solution was to bring a case in federal court.

In 1968, 14 Yakama tribal members brought such a case in federal court, *Sohappy v. Smith*. Very soon after, the United States and the four tribes (Warm Springs, Yakama, Umatilla and Nez Perce) filed a lawsuit in federal court against the state of Oregon, *United States v. Oregon*. Because the issues in the two cases were essentially the same, the federal judge consolidated the two cases into one. The lawsuit asked the federal court to determine the

scope of treaty fishing rights and decide whether Oregon had any regulatory authority over treaty fishing. The federal judge assigned to hear this monumental case was young and fairly new to the bench. His name was Robert C. Belloni.

### U.S. v. Oregon Decided

In a very controversial decision, Judge Belloni held in 1969 that the four Columbia River treaty tribes had a continuing right to take fish at their usual and accustomed places, and the Indians were entitled to a "fair and equitable share" of the fish resource. The judge further held that, while the state of Oregon has some authority to regulate tribal fishing, that authority is exists within strict limitations. Specifically, among other conditions, the state must prove that its regulations are non-discriminatory, necessary for conservation, and the least restrictive way to achieve conservation goals. Judge Belloni also implicitly recognized tribal regulatory authority.

Finally, and very importantly, Judge Belloni continued the court's jurisdiction over the case. The Judge was concerned that if he simply dismissed the case, the tribes would have a much more difficult time enforcing the ruling. By continuing the case, the judge ensured the tribes could seek "timely and effective judicial review" of state regulatory actions. The tribes would not have to file a brand new case each time the state failed to comply with the ruling.

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### Donations for Information Day

Tribal Information Day is Thursday, May 19 in Salem. This is the day when Oregon tribes exchange information with legislators and the public, and it's an opportunity to work as a team and walk away with shared goals. This year is the 30-year anniversary celebration of Tribal Information Day. The Confederated Tribes will have a booth there, and Myrtle Adams and Emma Smith, of the Tribal Council offices, are asking departments to contribute items to be distributed from the booth.

"We're coming to you for support of showing off our nation," they stated in their request. "We are asking for pens, pencils, cups, book markers, key chains, magnets, candles, brochures or any item that would show off pride of the Warm Springs Indian Reservation." Their hope is to have the gifts donated and ready by Monday, May 16. They can be reached at 553-3257 or -3258.

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