



Spilyay Tymoo

Coyote News, est. 1976

June 20, 2018 - Vol. 43, No. 13
June - Atixan - Spring - Wawaxam

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Tribes are party to Deschutes River lawsuit

Since 2010 a part of the Pelton-Round Butte hydro operation has been the selective water withdrawal, or fish tower. One purpose of the tower is to facilitate the downstream migration of fish such as salmon.

The tower is part an overall effort to re-establish migrating salmon and steelhead above the Pelton-Round Butte system, owned and operated since 2000 by Portland General Electric and the Confederated Tribes.

Fish passage was blocked when the dams were built in the 1950 and '60s, as the original fish passage design never worked. Part of the problem was the inability of downstream migrating fish to find their way through Lake Billy Chinook, because there was no downstream

current.

The selective water withdrawal tower helps create a surface current in the lake by drawing water from the top of the lake.

Regarding temperature, the cooler water is at the bottom of the lake, and the warmer at the top. The tower allows the project managers to mix these waters as they released through the dam. The intent is to match what would be the natural temperature downstream during various times of year.

In the early 2000s these and other aspects of the fish recovery effort were key parts of Pelton-Round Butte Federal Energy Regulatory Commission relicensing process. The intent at the time, as

it remains today, is to bring salmon back to habitat in the Upper Deschutes basin for future generations, said Tribal Councilman Raymond Tsumpti.

In 2016 a group, the Maupin-based Deschutes River Alliance, sued PGE alleging violations of the federal Clean Water Act in the operation of Pelton-Round Butte, especially the selective water withdrawal tower.

The Confederated Tribes were not named as party to the lawsuit, though the tribes have participated in the case in defense of the operation of the fish passage facility.

Recently in court, PGE argued that the tribes, as co-owner-operators, are an essential party to the

suit. But the tribes cannot be joined because of tribal sovereign immunity; so the case should be dismissed, PGE argued.

U.S. District Judge Michael H. Simon agreed with an aspect of this argument—that the tribes are an essential party. But Judge Simon also ruled the tribes can be joined, citing federal court precedents:

“Among the core aspects of sovereignty that tribes possess—subject to Congressional action—is the common-law immunity from suit traditionally enjoyed by sovereign powers.”

And:

See LAWSUIT on 2

Health Fair, Horse Parade

The Pi-Ume-Sha Health Fair is happening this Wednesday, June 20 at the Community Center. Stop by to see the new demonstration area, where health workers are giving fitness and cooking demonstrations.

The fair is hosted by the Confederated Tribes and Health and Human Services.

The Museum at Warm Springs this week will open the new exhibit *Memory of the Land: The Treaty of the Middle Columbia River Tribes and Bands*.

Opening the exhibit, the museum will host a **Traditional Horse Parade** this Thursday, June 21. The parade line-up is at 4:30 p.m., and the parade starts at 5. There will be a salmon bake and special guests starting at 6 p.m.

Memorable time at fiftieth class reunion

As a young teenager some 50 years ago, Tina Aguilar left Warm Springs for boarding school. It was late summer 1964 when she made the long bus ride to north central Oklahoma, to the Chilocco Indian School.

Her grandmother Rose Kuckup Kalama had been worried about Tina staying in Warm Springs at the time: There were bad influences, drinking and fighting around their home.

Tina was thinking she wanted to go to a boarding school closer to Warm Springs, but her grandmother said, “No, you’re going to Chilocco.”

The school was one of the five original non-reservation boarding schools established by Congress in 1882. These days Chilocco is no longer a school: the buildings now house a military base.

But in the 1960s, when Tina was living there, Chilocco was high school for Native students from all across the U.S., from Oregon and Washington to Oklahoma and Florida.

Her best friend Dorothy ‘Pebbles’ George was there at the time, and several other young people from Warm Springs. Theirs was one of the biggest



Tina Aguilar (third from left) with Class of 1968 visit the Chilocco Cemetery.

Courtesy Tina Aguilar

classes at Chilocco.

One time early on, Tina and Pebbles ran away from school. They had to do community service work, though the school staff were nice about it. And after that their friend Alex Stone—from Oklahoma, captain of the basketball, football and baseball teams—made a point of keeping them out of trouble.

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The entrance to the school, shown here with Angela Mendez, Shoshone Bannock, still stands. The school, though, has been converted to a military facility.

Forty-Ninth Pi-Ume-Sha

The Pi-Ume-Sha Queen Reception will be at 6 p.m. this Thursday, June 21 at the powwow grounds. Everyone is welcome. New and re-joining giveaways happening this evening as well.

The Pi-Ume-Sha Stick Games start at noon on Friday, June 22. And on Friday registration for dancers opens at 3 p.m. New and rejoiners at 6.

Registration for drummers opens at 6:30 on Friday. The first Grand Entry of Pi-Ume-Sha 2018 is at 7 p.m. Friday.

Treaty Days this year is marking the one-hundred and sixty-third anniversary of the signing of the Treaty of 1855, signed in that year on June 25. That was a Monday; this year June 25 also falls on a Monday.

The Forty-Ninth Annual Pi-Ume-Sha will feature the individual and team dance competitions, Ol’ Style and other specials, Men’s round Bustle and Women’s Shell Dress.

The Traditional Parade is Saturday morning, June 23. The Pi-Ume-Sha theme this year is ‘Chuush iwa naami waq’ishwit,’ meaning ‘Water is our life.’

Parade lineup starts at 9:30 in front of the former elementary school. And the parade starts at 11.

The Warm Springs Outdoor Market will be open this Friday and Saturday during Pi-Ume-Sha, hosted by the Warm Springs Community Action Team and the Tananawit artisans group.

There will be breakfasts at the community center on Saturday and Sunday mornings, supporting the Senior Program. The Endurance Horse Race is Saturday morning starting at the Shaker Church.

Warm Springs Recreation and Juvenile Crime Prevention are hosting the Pi-Ume-Sha Fun Run on Saturday. There will be rodeo, men and women’s softball, boxing and golf.

Tribal, fisheries victory with culvert case

The question was whether the state of Washington must pay billions to fix or replace hundreds of culverts.

The culverts are pipes of varying sizes that allow streams to pass beneath roads, a less expensive alternative to bridges.

But the culverts—and there are hundreds of them across the state—can block migrating salmon.

The U.S. Supreme Court heard the arguments from both sides—the United States and Northwest Indian tribes, versus the state of Washington—in April.

The Confederated Tribes of Warm Springs filed ‘friend of the court’ briefs in favor of the U.S. and Washington tribal position: The treaty language in question, regarding tribal fishing rights, is the similar and at times the same as that of the Confederated Tribes of Warm Springs’ Treaty of 1855.

Umatilla and the Nez Perce also made legal arguments in support of the tribes. Yakama Nation is a party of the lawsuit.

Last week the U.S. Supreme Court found in favor of the Washington tribes, a significant

victory for treaty rights, tribes and fisheries.

In their ruling, the Supreme Court justices tied 4-4 in the long-running dispute: The tie means the U.S. Ninth Circuit Court of Appeals ruling—in favor of the tribes—is affirmed.

The appeals court ruling had affirmed a district court order in 2013, requiring the state to fix or replace hundreds of the highest-priority culverts within 17 years.

Washington argued that federal treaties with the tribes created no obligation to restore salmon habitat.

They said the ruling would force the state to perform work that wouldn’t benefit salmon because other barriers may completely block fish.

The state also said the state’s taxpayers would be responsible for fixing problems created by the federal government, when it specified the design standards for the state’s old highway culverts.

Washington state officials have said addressing the culvert problem could cost as much as \$2.4 billion.

Treaty Days Celebration

June 22 & 23 and June 29 & 30 7-10 PM

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