Sandra Danzuka/Council office

Earlier this month at Tribal Council, Power and Water Enterprises and general manager Cathy Ehli, here represented by Michael Lofting, Power and Water Controller, presented the tribes a 2024 dividend payment in the amount of $12 million, accepted on behalf of the tribes by Council Chairman Jonathan Smith Sr.

2 positions on Economic Development board

The Warm Springs Economic Development Corporation is seeking to fill two positions on the corporation board of directors. The positions are both class II: One tribal member and one non-tribal member.

Qualified candidates must be interested in the economic and social development of the tribes and its membership, and possess an expertise in private industry, finance, banking or some other field that would benefit the corporation.

Letters of interest and resumes of applicants who interested in serving on the Warm Springs Economic Development Board of Directors should be submitted no later than **5 p.m. on Wednesday, January 31**. Drop off at the Warm Springs Economic Development building addressed to WSED CEO.

Or:

By mail send to: WSED CEO, 4202 Holliday St., PO Box 1186, Warm Springs OR 97761.

Or send by email to: jim.souers@wstribes.or

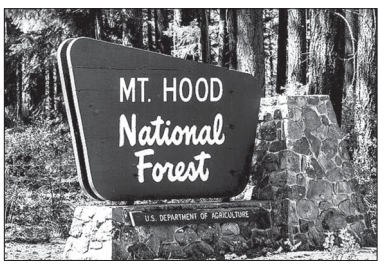
Criminal and credit background check will be required and forms can be emailed or mailed as requested. Information will be submitted confidentially to the WSED CEO.

Tribal inclusion part of Forest plan update

The deadline to comment on the U.S. Forest Service Northwest Forest Plan is coming up on February 2. The plan is in regard to the management of millions of acres of forest land in the Northwest, including Oregon.

The Forest Service will host a webinar on the proposal from noon to 1:30 p.m. this Thursday, January 25, followed by a virtual 'open house' from 5-7 p.m. on Thursday, February 8.

Meanwhile, Oregon federal lawmakers are sponsoring a bill to create a partnership between the U.S. Forest Service and the Confederated Tribes of Warm Springs to co-



manage areas of the Mt. Hood National Forest. The Wy'east Tribal Resources Restoration Act would direct the Forest Service to work with the tribes to create 'treaty resource emphasis zones.' The zones would be co-managed by the tribes and the Forest Service.

The proposed co-management plan for the Mt. Hood National Forest aims to "enhance tribal treaty resources, and protect the reservation from wildfire."

Regarding the Northwest Forest Plan: formal comments must be submitted electronically via the comment page by February 2. The comment page can be found at the website of the Forest Service-Region 6.

While comment page submissions are strongly preferred, hard copy letters may be also be submitted to the following ad-dress: Regional Forester, Region 6, U.S. Forest Service - Attn: Northwest Forest Plan Comments, 1220 SW 3rd Ave., Portland, OR, 97204.

How 'Boldt decision' 50 years ago remade Pacific Northwest fishing

It took violent protests and a decision appealed all the way to the U.S. Supreme Court to affirm the tribal right to fish, explicitly stated in treaties signed by their ancestors nearly 170 years ago as settlers colonized the Pacific Northwest.

The decision handed down by U.S. District Court Judge George Boldt 50 years ago next month was the result of sacrifices made by Native fishers and their families jailed and beaten while defending these rights. And yet now another threat looms over all they fought for: scarcity of the fish themselves.

Judge George Boldt set the trial, *United States v. Washington*, for August 27, 1973. It lasted three weeks, with Boldt eventually issuing a ruling early the next year that affirmed tribal fishing rights.

Attorneys and clients knew this trial was coming even before the complaint was filed in September 1970 and already had put in considerable work. The demands of the case intensified after the filing, and the action became frenetic during the year before trial. All parties were well prepared when the moment came.

Tribal members, hoping to protect fishing rights that were included in the 1850s treaties, were fearful.

To them, this case was about a way of life that went back thousands of years—forever, really. Salmon fishing and all that it stood for mattered tremendously; it was at the heart of what it meant to be Indian: The state meant to take that away. Would Indians be treated fairly in this trial that could debilitate or bring an end to their way of life?

The commercial fishing industry also had a lot to lose. It was taking more than 90-percent of the salmon, while the tribes were harvesting 3- to 6-percent, as they had for decades.

Going into the trial, industry leaders did not expect the tribes to be awarded 50 percent of the catch. That number had been floated, but lawyers for the United States had asked for only a "fair share." That was less threatening than 50-percent, but if Boldt did find for the tribes, whatever amount he ordered was going to come mostly out of the current commercial harvest.

United States v. Washington also was getting attention from the general public—not nearly as much as it would after the decision was handed down, but the trial was one of those cases that people knew about and kept their eyes on.

People variously worried about the impact on the economy, whether Indians would be treated fairly, and whether special tribal rights were justified or amounted to reverse discrimination.

Boldt decision background

In 1974, Judge George Boldt issued a ruling that affirmed the fishing rights and tribal sovereignty of Native nations in Washington state. The Boldt Decision transformed Indigenous law and resource management across the United States and beyond.

Like *Brown v. Board of Education*, the case also brought about far-reaching societal changes, reinforcing tribal sovereignty and remedying decades of injustice.

Whatever views people had, at least the overall setting for the trial exemplified the kind of dignified and solemn atmosphere that we expect when our most important, challenging decisions are being addressed and resolved. The trial was held in a classic federal courtroom in Tacoma's historic Court House Square Building at 1102 A St., a handsome stone and brick structure, a full block long, constructed in 1910.

Boldt, always wearing a bow tie with his robe, was a stickler for civil, courteous and respectful proceedings.

He made a point of not raising his voice, and lawyers, witnesses and others did the same. Occasionally, given the size of the spacious two-story room, witnesses and even a few attorneys would be too soft-spoken for the court reporter, but a polite request from the judge to speak a bit louder would be successful.

Judge Boldt expected lawyers to avoid personal conflicts with attorneys on the other side. A review of the transcripts shows that there was virtually no carping, quibbling or grousing among attorneys during the trial. This would be a trial to the court, with no jury.

Boldt gave all attorneys and witnesses a lot of leeway. He regularly admitted testimony, despite objections, noting that he would weigh it for its value.

"Every witness has a right to explain his answer if he chooses," he would say when permitting an extensive, and sometimes rambling, answer. Very few exhibits offered by attorneys were rejected.

The first day of the trial was dedicated to opening statements. The attorneys mostly kept their cards close to their chests. The trial would produce testimony, and cross-examination, from many witnesses, and numerous exhibits.

As many as 10 attorneys for the plaintiffs participated at various points during the trial, but Stuart Pierson, David Getches and Al Ziontz were the most active. On the state side, Larry Coniff and Earl McGimpsey represented the Department of Game and the Department of Fisheries, respectively.

In his opening statement, Pierson, a Special Assistant U.S. Attorney, recommended on the issue of a tribal share that Boldt adopt a "fair share" allocation to tribal fishers.

He argued that the state should be allowed to reevaluate tribal fishing only in the limited circumstances when it "threatens the preservation of the runs."

Getches, of the Native American Rights Fund, spoke second and, like Pierson, asserted that tribal rights included commercial, as well as subsistence, uses. He offered a broad perspective: "Not far from where this courthouse now stands, approximately 120 years ago, the first of several treaties negotiated by the United States of America with Indian tribes was signed. It was language within that treaty concerning fishing rights that this trial is all about.…

"One party comes with a right secured under the supreme law of the land reserved by them 120 years ago. The other party comes with rights that are really privileges, privileges that run from the state to the fishermen.

"Today the Indian fishing right is very much alive, but it is in chains, and we ask this court to emancipate those fishing rights, and in doing this, we don't ask the court for any radical judicial legislation."

Coniff, assistant attorney general and the most combative of all of the lawyers, argued that the tribes did not have any treaty rights at all:

"If there is such evidence of such an exclusive right, then I would ask the court to carefully review the evidence in this record and ask the question, first, then, why after 120 years has it just been discovered? Two, if it really exists at all."

BOLDT continues on 5