

Indian News Notes

By VINCE LOVETT

SUPREME COURT UPHOLDS BOLDT DECISION ON INDIAN FISHING RIGHTS: The United States Supreme Court ruled July 2 that Judge George Boldt's 1974 decision that Washington Indian tribes were entitled by treaty to half the harvest of fish in the Indians' usual and accustomed fishing places. The court modified the Boldt ruling by requiring all fish caught by the Indians, including those caught for ceremonial and subsistence purposes, to count against their fifty percent. The court also supported Boldt's actions to enforce his ruling when state officials were either unwilling or unable to enforce his orders. The opinion, written by Justice Stevens, stated: "The Federal court unquestionably has the power to enter the various orders that state official and private parties have chosen to ignore, and even to displace local enforcement of those orders if necessary to remedy the violations of Federal law bound by the court." Interior Assistant Secretary Forrest Gerard, commenting on the decision, made the point that, "Judge Boldt's initial decision was not a 'gift' or a 'special grant' to the tribes... His decision was based on the treaties that the tribes had entered into as equal partners with the United States Government...the tribes made substantial concessions, including surrender of control of vast areas of land, in return for retention of their 'right of taking fish at usual and accustomed grounds and stations...in common with all citizens of the Territory.'"

SUMMARY OF SUPREME COURT'S AFFIRMATION OF BOLDT DECISION: The following excerpts are from the syllabus prepared by the Reporter of Decisions and released with the opinion prepared by Justice Stevens and the dissent written by Justice Powell. "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...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 District Court erred in excluding fish taken by the Indians on their reservations from their share of the runs, and in excluding fish caught for the Indians' ceremonial and subsistence needs...If the spirit of cooperation motivating the State Attorney General's representation to this Court that definitive resolution of the basic federal question of construction of the treaties will allow state compliance with federal court orders is not confirmed by the conduct of state officials, the District Court has the power to undertake the necessary remedial steps and to enlist the aid of appropriate federal law enforcement agents in carrying out those steps."

NAVAJO TRIBAL PAPER HAS FINANCIAL PROBLEMS FUTURE UNCERTAIN: The NAVAJO TIMES reported in its June 28 issue that it was discontinuing publication of the GALLUP PROGRESS, a subsidiary operation started last April by then general manager Bill Donovan. Virgil Wyaco, who replaced Donovan as general manager about two months ago said that the closing of the PROGRESS would save the paper about \$40,000 over the next three months. Wyaco was still trying to get the tribe's budget and finance committee to approve a new budget to allow continued publications of the TIMES. Modern Press in Albuquerque, the paper's printer, said that determination of whether any more issues would be printed would depend on what action the budget committee would take at a scheduled meeting June 29. According to a story in the June 21 issue, some members of the editorial staff, believe that the paper's budget problems and Donovan's removal constitute an attempt by the Chairman's office to muzzle the editorial staff and turn the paper into a tribal newsletter.

COMMERCE SECRETARY DOES NOT CUT OCEAN-SALMON FISHING: Commerce Secretary Juanita Kreps announced June 27 that she would make no changes in 1979 regulations for West Coast ocean-salmon fishermen. The season for off-shore commercial trollers would thus begin on July 1. Eight Columbia River Indian tribes have filed suit challenging the Commerce Department regulations that set the season from July 1 to September 8. They have asked that the dates be July 15 to August 21. According to reports in the PORTLAND, OREGONIAN, the tribes were unsuccessful in getting quick court action needed to stop the July 1 beginning. On June 28, District Judge Robert Belloni, who has been hearing fishing cases involving Indian treaty rights for 12 years, disqualified himself on a motion by two commercial fishing groups that contended he was biased in favor of the Indians. On Friday, June 29, District Judge Otto Skopil, Jr., said that the parties in the controversy could not agree on the issues and evidence and, since he was not prepared to hold a lengthy trial on it, he would try to find another judge to hear the case. Tim Weaver, lawyer for the Yakima Indians, said that the Sunday resumption of the trolling season would mean some damage to the Indian fishing run.

"If troublesome obstacles come upon you, think of the achievements of your ancestors. They established cultures that very well met the unkind situations. They won over them and left ample room for fun, arts, and for big shares of lightheartedness."

—Howard Rock