

# Foley donates Baneberry papers to UNLV

by Barbara E. Minden

Judge Roger D. Foley, Senior District Judge of the District of Nevada, recently made a significant contribution to the James R. Dickinson Library with the Baneberry papers. The Baneberry case concerned a nuclear device test gone wrong at the Nevada Test Site.

The Baneberry case began on Dec 18, 1970, when a nuclear device, code named "Baneberry," was detonated under Yucca Flats at the Nevada Test Site in Southern Nevada. Three-and-a-half minutes after detonation, a 300-foot fissure opened in the earth's surface and released a large radioactive cloud.

The Baneberry papers include newspaper clippings, indexed court transcripts and other related documents. The transcripts provide testimonies

of nationally and internationally known experts of many scientific disciplines. There are also testimonies from people who watched as erratic surface winds carried a portion of the cloud over Area 12, a camp where 900 people lived and worked on the Ranier Mesa at the Test Site.

The lawsuit was brought by the widows of Harley Roberts and William Nunamaker, employees at the Site. Nunamaker was a welder. Roberts was a guard with Wackenhut Services, Inc.

Nunamaker left soon after the cloud reached the camp. Roberts was ordered to assist with the evacuation. He ran throughout the camp, urging men to leave while breathing in the radioactive cloud.

Jack Cupples was also on guard duty that night. Cupples said he requested firefighters

to turn on an evacuation siren but the crew said they only took orders from the fire chief, who was absent.

"I walked into the first row of trailers," Cupples said, "saw myself in a mirror and did a double take. My entire face was white, it was in my hair and my lips were all clogged up.

'My God,' I thought, 'I'm breathing this stuff.' I grabbed some towels and some papers and I ran out and told everyone else to put something over their face."

Harley Roberts was ordered to Dead Horse Flats, a remote guard station. He sat there for nine hours in a radioactive truck wearing radioactive clothing. A radiation safety monitor told Roberts to, "Get out of here, you're hot as hell!"

When Roberts finally got to the decontamination area, testimony recalled that the boiler

had gone out and the water was freezing. They showered and then radiation safety monitors told them to do it again.

One news report said the process was repeated 13 times. Cupples' testimony spoke of bleeding skin from the scrubbing.

Roberts died three years after Baneberry from acute myeloblastic leukemia. His bone marrow cells contained 45 chromosomes instead of the normal 46.

Months later, William Nunamaker died of leukemia. Cupples suffered from lung disease and blood clots in the lungs.

The non-jury trial on the widows' suits began in U.S. District Court in Las Vegas on Jan. 16, 1979.

Foley toured the test site area of the blast during the trial. Low-level radiation was still measurable on the ground from

the blast. He also visited UNLV's Environmental Protection Agency monitoring lab where he questioned John Eckert, the person who measured the radiation in 18 men after the blast. (Nunamaker and Roberts were not among them).

Foley found that the government had been negligent by not ensuring adequate safety measures but that the plaintiffs had not provided sufficient evidence to link the radiation exposure to the leukemia.

Larry Johns, the widows' attorney, said, "He ruled in our favor because he found negligence on the part of the government's safety procedures. It is tremendously significant because it allows us to sue the government."

The case is on appeal with the 9th Circuit Court.

# Library Society welcomes endowment

The growth of UNLV, plus curtailed state funding, limits the ability of the library to provide adequate, current, research materials. The library has turned to private donors for support in creating excellent collections and services. Judge Roger D. Foley's contribution of case documents is one way the community can support the library. Endowments are another.

Library endowments come from substantial donations or bequests by individuals, families or organizations. Interest generated by the principal is

used each year to enhance collections and services. Endowments are sometimes restricted to developing a particular service and/or subject areas of the collection.

Two of Foley's most notable cases, Baneberry and the Devil's Hole pupfish, concern environmental issues. Foley has been quoted as saying the "pupfish" was one of his favorite cases.

The pupfish have lived in Death Valley for thousands of years. As the Ice Age melted away, lakes were formed. The home of the pupfish was called

Devil's Hole. When ranchers began to pump water from the same source that fed Devil's Hole, the existence of the fish was endangered. Because Devil's Hole is on federal land, a decision on preeminent rights had to be made. Foley sided with the fish and was upheld by unanimous Supreme Court endorsement.

Foley was admitted to the Nevada State Bar in 1948, when he began a long and distinguished career in the Nevada legal system. He was the Clark County District Attorney from 1951 to 1955 and Attorney General for the State of Nevada from 1959 to 1962, serving as Chief Judge until 1980, and

then retiring to Senior status in 1982. He still serves the Nevada Federal Court as a Senior Judge but has announced plans to give up his seat at the end of the year.

Foley has been showered with honors and accolades from all sectors. The B'nai B'rith Lodge Anti-Defamation League honored him with a distinguished service award in 1965. The Clark County Board of County Commissioners proclaimed Feb. 5, 1983, Roger D. Foley day. The Nevada Trial Lawyers issued the jurist of the year distinguished service award to him in 1987. Former Nevada Governor, Richard Bryan, proclaimed Sep. 17, 1987, Roger D. Foley day in Nevada. The University of Ne-

vada, Las Vegas, awarded him distinguished Nevadan honors in 1988.

Dr. Constandina (Dina) Titus, associate professor in the department of political science and author of *Bombs in the Backyard*, was instrumental in obtaining Foley's Baneberry case documents. She said the documents "will be a wonderful resource for students in many fields—history, law, political science, communication studies, and sociology."

Because of his support for the environment, the University Library Society is pleased to announce the establishment of the Roger D. Foley Library Endowment for Environmental Studies. To inquire, call the library offices at 739-3286.

## KUNV

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sentation on a proposed 20-member Community Advisory Board made up of KUNV staff, faculty members, regents, and community leaders and activists. This board would advise KUNV's general manager on the station's operations and programming budget, and assist KUNV in fundraising activities.

However, Rosenthal said that both KUNV's independence and the aforementioned advisory board would have to wait until after an upcoming student referendum on the proposal.

Benneman was optimistic about the referendum's outcome, saying the campaign should do well with enough voter education about KUNV, and that most students would overwhelmingly favor the station's independence.

As for the quality and content of KUNV's programs, neither Rosenthal, Benneman, nor Kevin Kew, KUNV's programming director, felt it would be affected by the station's proposed independence.

## The Rebel Yell

The Rebel Yell is the student newspaper of UNLV. It is published by Nifty Nickel, Inc. every Tuesday and Thursday during the school year except holidays.

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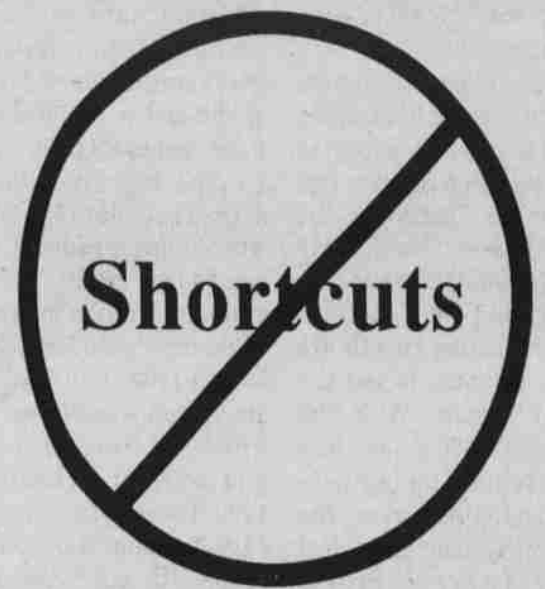
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