

Ordinance No. 7.200. Amended by Resolution No. 2005-361, dated September 16, 2005.

Original Date: May 16, 1999
Subject: Geographic Areas of Tribal Interest

GEOGRAPHIC AREAS OF TRIBAL INTEREST ORDINANCE

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§ 7.200 PURPOSE

(a) Statement of Purpose. The Confederated Tribes of Siletz Indians is a federally recognized Indian Tribe (referred to as the "Siletz Tribe" for some purposes) which is comprised of Indian tribes and bands and members of Indian tribes and bands who were settled by the federal government on the "Siletz" or "Coast" Reservation (hereinafter "Siletz Reservation"), from 1855 forward. Those tribes, bands, and persons which were settled on the Siletz Reservation were and are possessed of legal and customary rights of possession and use to those geographic areas in which they historically resided and occupied, in addition to legal rights associated with such tribes', bands' and persons' settlement on the Siletz Reservation. These legal and customary rights arise from many sources including, but not limited to, Anglo-American legal principles. The Siletz Tribe is asserting and will assert these legal and customary rights on behalf of the Tribe and tribal members.

(b) Standard of Interest. The Siletz Tribe has conducted an intensive investigation of the historical and legal circumstances of the Tribe and of the tribes, bands, and persons who make up the Siletz Tribe and its membership. The Siletz Tribe declares its interest in those geographic areas where its investigation has shown a justifiable scientific and/or legal connection to such areas.

PART I ANCESTRAL TRIBAL LANDS

§ 7.201 POLICY

The Siletz Tribe is comprised of Indian tribes, bands and members which originate in many cases from geographic areas or territories other than the geographic area which comprised the Siletz Reservation as formally established in 1855. The history of the Siletz Tribe is divided into pre-treaty and post-treaty time periods. It is the policy of the Siletz Tribe to declare those lands and geographic areas occupied by tribes or bands which comprise the Siletz Tribe, or occupied by tribes or bands

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from which members of the Siletz Tribe derive, in pre-treaty times as ancestral lands of the Siletz Tribe.

§ 7.202 DEFINITIONS

(a) "Ancestral lands" shall mean the traditional historical area of occupation of an Indian tribe or band, and shall include the terms "ancestral lands," "aboriginal area" or "aboriginal territory," and "ancient tribal lands" or "ancient tribal boundaries."

(b) "Pre-treaty times" shall mean that period of time pre-dating the negotiation of treaties by the federal government with tribes, bands, and other groups of Indians which occupied the lands of western Oregon, northwest California and southwest Washington. For purposes of this Ordinance, pre-treaty times shall be defined as any period of time prior to 1851.

(c) "Occupied" or "occupation" shall mean those lands upon which an Indian tribe, band or group resided upon or used on a permanent, seasonal, or periodic basis. Use of such lands includes regular or sustained use for any societal purpose, including but not limited to residence; hunting, fishing, gathering, or other resource utilization; travel or passage; ecosystem protection or health; culture; religious; and political purposes. It shall not be a negation of occupation of lands under this section if a geographic area was used only on an episodic basis or was not used for years at a time. "Occupation" need not have been exclusive to any specific tribe, band or group of Indians, but must have been of substantial importance to such tribe, band or group.

§ 7.203 TRIBES AND BANDS WHICH COMPRISE THE SILETZ TRIBE

(a) Statement of Policy. The legal history of those tribes, bands and groups which comprise the Siletz Tribe are extremely varied. In some cases tribes or bands were moved as identifiable, complete entities to the Siletz Reservation. In other cases, tribes or groups were moved piecemeal or at different times to the Siletz Reservation, or different sub-groups of a tribe or band were moved separately to the Siletz Reservation as those groups signed treaties, engaged in hostilities, surrendered, or were moved to or removed from specific territory. In still other cases, a tribe or band was not moved at one time as a group to the Siletz Reservation, but individual members or families from such tribes or bands were moved to the Siletz Reservation as the individuals or families were captured or as other circumstances occurred. The Siletz Tribe declares its legal, historical and cultural connection to all such tribes and bands.

(b) Tribes and Bands of Indians Which Comprise the Siletz Tribe. The following named

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tribes and bands of Indians, or substantial numbers of individuals or families from said tribes and bands of Indians, were settled on the Siletz Reservation from 1855 on so as to make said tribes and bands part of the confederated Indian nations which comprise the Siletz Tribe. Names of tribes or bands of Indians set out on this list include phonetic derivations and other name variations of said tribes and bands:

- (1) Alsea (including Yaquina and Alsea);
- (2) Chinook (including upper and lower Chinook, and Clatsop);
- (3) Coos (Including Hanis and Miluk);
- (4) Kalapuya (including Yamhill, Santiam, Yoncalla, Tualatin, Marys River, etc.);
- (5) Lower Umpqua, Siuslaw;
- (6) Molalla;
- (7) Shasta (including Klamath River);
- (8) Rogue River (this is a general term that has been applied to Takelma, Shasta, Applegate, Galice Creek, or any of the Lower Rogue Athapascan groups);
- (9) Klickitat;
- (10) Takelma (including Dagelma, Latgawa, and Cow Creek);
- (11) Tututni (including all southwest Oregon Athapascan Indian groups including Upper Umpqua, Upper Coquille, Euchre Creek, Flores Creek, Pistol River, Port Orford, Yashute, Mikonotunne, Applegate River, Galice Creek, Chetco, Chasta Costa, Tolowa, Sixes, Naltunnetunne, etc.);
- (12) Tillamook, including Siletz, Salmon River, Nestucca, Nehalem, Tillamook Bay, etc.).

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The listed tribes and bands include all such entities which, in the estimation of the Siletz Tribe and based upon current scientific and legal evidence, constitute the tribes and bands of Indians which comprise the Siletz Tribe. Based upon information and investigation, this list may be added to or names removed therefrom by Tribal Council resolution.

(c) Successor Tribe. Based on scientific analysis and inquiry and legal policy analysis, the Siletz Tribe declares that it is the successor tribe in interest to those tribes and bands listed in subsection (b). This declaration is based upon the scientific and legal conclusion that the tribes and bands listed therein moved as distinct political units to the Siletz Reservation and continued their existence on the Siletz Reservation as part of the confederation of tribes and bands which comprise the Siletz Tribe.

In some cases other Indian tribes may have a companion claim or connection to successor tribe status to the tribes and bands listed in subsection (b). The Siletz Tribe declares that successor tribe status as defined herein is not necessarily exclusive. The Siletz Tribe declares that in the event another Indian tribe states a claim as successor tribe to one of the tribes or bands listed in subsection (b), and it is necessary for some purpose that only one successor tribe legally exist, it shall be the policy of the Siletz Tribe to negotiate the resolution of successor tribe status directly with said tribe.

(d) Ancestral lands. The ancestral lands of the Siletz Tribe consist of the ancestral lands of the tribes and bands of Indians set out in subsection (b). A map is attached to this Ordinance as Attachment A, which generally describes the geographic area which comprises the ancestral lands of each of said tribe or band. This map is based upon land descriptions of the ancestral lands of each tribe or band which appear in reliable scientific documentation, in Court of Claims or Indian Claims Court decisions, in ratified and unratified treaties, in court decisions, or in other reliable sources of information. The land descriptions shown in Attachment A may be modified from time to time, by Tribal Council resolution, based on newly acquired information.

PART II
TREATY BASED OCCUPATION AREA

§ 7.204 **POLICY**

The tribes and bands of Indians which comprise the Siletz Tribe, as set out in §4.103(b) of this Ordinance, were party to numerous treaty based relationships with the United States, including both ratified and unratified treaties, as well as Executive Department relationships (Executive Orders, Interior Department communications, etc.) which derived from or evolved out of the

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constitutional treaty relationship between Indian tribes and the United States. Various legal rights and responsibilities related to lands were created by or derive from these treaty based relationships, and still exist in whole or in part. The purpose of this Part is to define those treaty-based geographical areas which are of sovereign interest to the Siletz Tribe.

§ 7.205 **SILETZ TREATIES**

(a) The tribes and bands of Indians which comprise the Siletz Tribe entered into the following treaties with the United States. Some of these treaties were not ratified as that term is used in the United States Constitution. The Siletz treaties are as follows:

- (1) Treaty with the Rogue River, Sept. 10, 1853, 10 Stat. 1018, ratified April 12, 1854, proclaimed Feb. 5, 1855;
- (2) Treaty with the Umpqua-Cow Creek Band, Sept. 19, 1853, 10 Stat. 1027, ratified April 12, 1854, proclaimed Feb. 5, 1855;
- (3) Treaty with the Rogue River, Nov. 15, 1854, 10 Stat. 1119, ratified March 3, 1855, proclaimed April 7, 1855;
- (4) Treaty with the Chasta, etc., Nov. 18, 1854, 10 Stat. 1122, ratified March 3, 1855, proclaimed April 10, 1855;
- (5) Treaty with the Umpqua and Kalapuya, Nov. 29, 1854, 10 Stat. 1125, ratified March 3, 1855, proclaimed Mar. 30, 1855;
- (6) Treaty with the Molala, Dec. 21, 1855, 12 Stat. 981, ratified March 8, 1859, proclaimed April 27, 1859;
- (7) Treaty with the Kalapuya, etc., Jan. 22, 1855, 10 Stat. 1143, ratified March 3, 1855, proclaimed April 10, 1855;
- (8) Treaty with the Tilamooks and other confederate tribes and bands of Indians residing along the coast west of the summit of the Coast Range of mountains and between the Columbia River on the north and the southern boundary of Oregon on the south, Aug. 11, 1855 (unratified).

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§ 7.206 **TREATY BASED OCCUPATION AREAS**

(a) The following geographic areas constitute the treaty based occupation areas of the Siletz Tribe. Such areas consist of permanent and temporary reservations or homeland areas set out in the treaties listed in §7.205 of this Ordinance, or which originated from such treaties. The Siletz treaty based occupation areas are as follows:

- (1) the Coast or Siletz reservation as described in the unratified Siletz treaty of 1855, listed at §7.205(h) of this Ordinance;
- (2) the Coast or Siletz reservation as established by Executive Order dated November 9, 1855;
- (3) the Table Rock Reserve, as described in the treaties listed at §§7.205(a) and (c) of this Ordinance;
- (4) those homeland areas described in the treaties listed at §7.205 of this Ordinance, wherein the designated tribes and bands were required to reside in a specified geographic area until a permanent reservation was selected for their residence.

§ 7.207 **PERMANENT SILETZ RESERVATION**

The treaties listed at §7.205(1),(3) and (4) state that the tribes and bands that were parties to those treaties would remain on the Table Rock Reserve (*see* §7.206(3)) until a permanent reservation was selected for their residence. The Table Rock Reserve was opened for non-Indian settlement by May 8, 1862, based upon an Interior Department decision that the Indians located thereon had been moved to the Siletz reservation and that the Table Rock Reserve was no longer needed for Indian purposes. The Siletz Tribe declares that, based on the treaties listed in §7.205 and on other authority and legal principles, the Siletz Reservation was the permanent treaty reservation of the tribes and bands which comprise the Siletz Tribe as of the establishment of the Coast Reservation by Executive Order dated November 9, 1855, or 1862 at the latest.

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PART III
SERVICE AREA

§ 7.208 POLICY

The Siletz Tribe was terminated by the Western Oregon Indians Termination Act of 1954, 25 U.S.C. § 691 *et seq.* As a result of termination and the diminishment of tribal cohesion, the members of the Siletz Tribe were scattered throughout western Oregon. The Siletz Tribe was restored to federally recognized status by Congress in 1977, 25 U.S.C. § 711, *et seq.*, but a land base for the Tribe was not restored at the same time because of state and non-Indian concern about the nature and extent of the Siletz Tribe's hunting, fishing and gathering rights. Because many federal programs for which Indians and Indian tribes are eligible require residence on or near an Indian reservation, Congress created a Siletz "Service Area" as a substitute for a formal reservation. Congress declared in the Siletz Restoration Act and its legislative history that the Siletz Service Area would be deemed equivalent to an Indian reservation for purposes of qualification for those federal services and benefits provided to Indian tribes and members of the Tribe by virtue of their status as Indians.

§ 7.209 SERVICE AREA OF THE SILETZ TRIBE

(a) The following named counties of the State of Oregon constitute the Service Area of the Siletz Tribe as meant by the Siletz Restoration Act and its legislative history. These counties are listed based on the history of the Siletz Tribe and its members, the Siletz Restoration Act and its legislative history, and federal laws, regulations and policies adopted since the Restoration Act was passed in 1977. The counties which comprise the Siletz Service Area are as follows:

- (1) Lincoln;
- (2) Yamhill;
- (3) Polk;
- (4) Lane;
- (5) Marion;
- (6) Multnomah;

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- (7) Washington;
- (8) Clackamas;
- (9) Tillamook;
- (10) Benton;
- (11) Linn.

PART IV
LAND CONSOLIDATION AREA

§ 7.210 **POLICY**

The Indian Reorganization Act of 1934 ("IRA"), 25 U.S.C. § 465, allows the Secretary of Interior, in his or her discretion, to take land into trust for the benefit of an Indian tribe or of individual Indians. Congress in the Siletz Restoration Act, 25 U.S.C. § 711a(a), expressly applied this provision of the IRA to the Siletz Tribe. The Department of the Interior has adopted regulations to implement the provisions of 25 U.S.C. § 465. *See* 25 Part 151. These regulations provide for the adoption of a Tribal Land Consolidation Area. Applications by an Indian tribe to the Department of Interior to take land into trust when the property involved is located within an approved Tribal Land Consolidation Area follow a streamlined fee-to-trust process. The Siletz Tribe supports creation of a broad Land Consolidation Area to facilitate the processing by the Department of Interior of fee-to-trust applications from the Siletz Tribe.

§ 7.211 **SILETZ TRIBAL LAND CONSOLIDATION AREA**

- (a) The approved Siletz Tribal Land Consolidation Area is described as follows:

- Township 9 South, Range 11 West;
- Township 9 South, Range 10 West;
- Township 9 South, Range 9 West;
- Township 10 South, Range 11 West;
- Township 10 South, Range 10 West;
- Township 10 South, Range 9 West; and
- Portion of Township 10 South, Range 8 West,

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Willamette Meridian, Lincoln County, Oregon

Approved by Portland Area Acting Director,
Nov. 25, 1980

(b) This Area may be modified from time to time, as provided by federal regulation. Upon approval of a modified Siletz Tribal Land Consolidation Area by appropriate Interior Department officials, the description included in this section shall be changed.