

**(b) Restoration of rights and privileges**

Except as provided in subsection (d) of this section, all rights and privileges of this Tribe and of its Members under any Federal treaty, Executive order, agreement or statute or under any other authority, which were diminished or lost under the Act of August 13, 1954 (68 Stat. 724) [25 U.S.C. 691 et seq.], are hereby restored and provisions of said Act shall be inapplicable to the Tribe and its Members after June 28, 1989.

**(c) Federal services and benefits**

Notwithstanding any other provision of law and without regard to the existence of a reservation, the Tribe and its Members shall be eligible, on and after June 28, 1989, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized tribes residing on a reservation, Members of the Tribe in the Tribe's service area shall be deemed to be residing on a reservation. Notwithstanding any other provision of law, the Tribe shall be considered an Indian tribe for the purpose of the Indian Tribal Government Tax Status Act (26 U.S.C. 7871).

**(d) Hunting, fishing, trapping, and water rights**

Nothing in this subchapter shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its Members.

**(e) Indian Reorganization Act applicability**

The Act of June 18, 1934 (48 Stat. 984), as amended [25 U.S.C. 461 et seq.], shall be applicable to the Tribe and its Members.

**(f) Certain rights not altered**

Except as specifically provided in this subchapter, nothing in this subchapter shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

(Pub. L. 101-42, §3, June 28, 1989, 103 Stat. 91.)

## REFERENCES IN TEXT

Act of August 13, 1954, referred to in subsec. (b), is act Aug. 13, 1954, ch. 733, 68 Stat. 724, which is classified generally to subchapter XXX (§691 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

The Indian Tribal Government Tax Status Act, referred to in subsec. (c), probably means the Indian Tribal Governmental Tax Status Act of 1982, title II of Pub. L. 97-473, Jan. 14, 1983, 96 Stat. 2607, as amended, which is classified principally to subchapter C (§7871) of chapter 80 of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see Short Title of 1983 Amendments note set out under section 1 of Title 26 and Tables.

Act of June 18, 1934, referred to in subsec. (e), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

**§ 715b. Economic development****(a) Plan for economic development**

The Secretary shall—

- (1) enter into negotiations with the governing body of the Tribe with respect to estab-

lishing a plan for economic development for this Tribe;

- (2) in accordance with this section and not later than two years after the adoption of a tribal constitution as provided in section 715g of this title, develop such a plan; and

- (3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

**(b) Restrictions to be contained in plan**

Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) of this section shall be consistent with the requirements of section 715c of this title.

(Pub. L. 101-42, §4, June 28, 1989, 103 Stat. 92.)

**§ 715c. Transfer of land to be held in trust****(a) Lands to be taken in trust**

The Secretary shall accept any real property located in Coos and Curry Counties not to exceed one thousand acres for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary: *Provided*, That, at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the Tribe's service area pursuant to his authority under the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.].

**(b) Lands to be part of reservation**

Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the Tribe and shall be part of its reservation.

**(c) Lands to be nontaxable**

Any real property taken into trust for the benefit of the Tribe under this section shall be exempt from all local, State, and Federal taxation as of the date of transfer.

**(d) Creation of Coquille Forest****(1) Definitions**

In this subsection:

(A) the<sup>1</sup> term "Coquille Forest" means certain lands in Coos County, Oregon, comprising approximately 5,400 acres, as generally depicted on the map entitled "Coquille Forest Proposal", dated July 8, 1996.

(B) the<sup>1</sup> term "Secretary" means the Secretary of the Interior.

(C) the<sup>1</sup> term "the Tribe" means the Coquille Tribe of Coos County, Oregon.

**(2) Map**

The map described in subparagraph (d)(1)(A), and such additional legal descriptions which are applicable, shall be placed on file at the local District Office of the Bureau of Land Management, the Agency Office of the Bureau of Indian Affairs, and with the Senate Committee on Energy and Natural Resources and the House Committee on Resources.

**(3) Interim period**

From September 30, 1996, until two years after September 30, 1996, the Bureau of Land Management shall:

<sup>1</sup> So in original. Probably should be capitalized.

(A) retain Federal jurisdiction for the management of lands designated under this subsection as the Coquille Forest and continue to distribute revenues from such lands in a manner consistent with existing law; and,<sup>2</sup>

(B) prior to advertising, offering or awarding any timber sale contract on lands designated under this subsection as the Coquille Forest, obtain the approval of the Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with the Tribe.

#### (4) Transition planning and designation

(A) During the two year interim period provided for in paragraph (3), the Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with the Tribe, is authorized to initiate development of a forest management plan for the Coquille Forest. The Secretary, acting through the Director of the Bureau of Land Management, shall cooperate and assist in the development of such plan and in the transition of forestry management operations for the Coquille Forest to the Assistant Secretary for Indian Affairs.

(B) Two years after September 30, 1996, the Secretary shall take the lands identified under subparagraph (d)(1)(A) into trust, and shall hold such lands in trust, in perpetuity, for the Coquille Tribe. Such lands shall be thereafter designated as the Coquille Forest.

(C) So as to maintain the current flow of revenue from land subject to the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon" (the O&C Act), approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary shall redesignate, from public domain lands within the tribe's service area, as defined in this subchapter, certain lands to be subject to the O&C Act. Lands redesignated under this subparagraph shall not exceed lands sufficient to constitute equivalent timber value as compared to lands constituting the Coquille Forest.

#### (5) Management

The Secretary of<sup>3</sup> Interior, acting through the Assistant Secretary for Indian Affairs, shall manage the Coquille Forest under applicable State and Federal forestry and environmental protection laws, and subject to critical habitat designations under the Endangered Species Act [16 U.S.C. 1531 et seq.], and subject to the standards and guidelines of Federal forest plans on adjacent or nearby Federal lands, now and in the future. The Secretary shall otherwise manage the Coquille Forest in accordance with the laws pertaining to the management of Indian Trust<sup>4</sup> lands and shall distribute revenues in accord with Public Law 101-630, 25 U.S.C. 3107.

(A) Unprocessed logs harvested from the Coquille Forest shall be subject to the same Federal statutory restrictions on export to foreign Nations<sup>4</sup> that apply to unprocessed logs harvested from Federal lands.

(B) Notwithstanding any other provision of law, all sales of timber from land subject to this subsection shall be advertised, offered and awarded according to competitive bidding practices, with sales being awarded to the highest responsible bidder.

#### (6) Indian Self-Determination Act agreement

No sooner than two years after September 30, 1996, the Secretary may, upon a satisfactory showing of management competence and pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.], enter into a binding Indian self-determination agreement (agreement) with the Coquille Indian Tribe. Such agreement may provide for the tribe to carry out all or a portion of the forest management for the Coquille Forest.

(A) Prior to entering such an agreement, and as a condition of maintaining such an agreement, the Secretary must find that the Coquille Tribe has entered into a binding memorandum of agreement (MOA) with the State of Oregon, as required under paragraph 7.<sup>5</sup>

(B) The authority of the Secretary to rescind the Indian self-determination agreement shall not be encumbered.

(i) The Secretary shall rescind the agreement upon a demonstration that the tribe and the State of Oregon are no longer engaged in a memorandum of agreement as required under paragraph 7.<sup>5</sup>

(ii) The Secretary may rescind the agreement on a showing that the Tribe has managed the Coquille Forest in a manner inconsistent with this subsection, or the Tribe is no longer managing, or capable of managing, the Coquille Forest in a manner consistent with this subsection.

#### (7) Memorandum of agreement

The Coquille Tribe shall enter into a memorandum of agreement (MOA) with the State of Oregon relating to the establishment and management of the Coquille Forest. The MOA shall include, but not be limited to, the terms and conditions for managing the Coquille Forest in a manner consistent with paragraph (5) of this subsection, preserving public access, advancing jointly-held resource management goals, achieving tribal restoration objectives and establishing a coordinated management framework. Further, provisions set forth in the MOA shall be consistent with federal<sup>6</sup> trust responsibility requirements applicable to Indian trust lands and paragraph (5) of this subsection.

#### (8) Public access

The Coquille Forest shall remain open to public access for purposes of hunting, fishing, recreation and transportation, except when closure is required by state<sup>6</sup> or federal<sup>6</sup> law, or when the Coquille Indian Tribe and the State of Oregon agree in writing that restrictions on access are necessary or appropriate to prevent harm to natural resources, cultural resources or environmental quality;<sup>7</sup> *Provided*, That the

<sup>2</sup> So in original. The comma probably should not appear.

<sup>3</sup> So in original. Probably should be followed by "the".

<sup>4</sup> So in original. Probably should not be capitalized.

<sup>5</sup> So in original. Probably should be paragraph "(7)".

<sup>6</sup> So in original. Probably should be capitalized.

<sup>7</sup> So in original. The semicolon probably should be a colon.

State of Oregon's agreement shall not be required when immediate action is necessary to protect archaeological resources.

**(9) Jurisdiction**

(A) The United States District Court for the District of Oregon shall have jurisdiction over actions against the Secretary arising out of claims that this subsection has been violated. Consistent with existing precedents on standing to sue, any affected citizen may bring suit against the Secretary for violations of this subsection, except that suit may not be brought against the Secretary for claims that the MOA has been violated. The Court has the authority to hold unlawful and set aside actions pursuant to this subsection that are arbitrary and capricious, an abuse of discretion, or otherwise an abuse of law.

(B) The United States District Court for the District of Oregon shall have jurisdiction over actions between the State of Oregon and the Tribe arising out of claims of breach of the MOA.

(C) Unless otherwise provided for by law, remedies available under this subsection shall be limited to equitable relief and shall not include damages.

**(10) State regulatory and civil jurisdiction**

In addition to the jurisdiction described in paragraph 7<sup>5</sup> of this subsection, the State of Oregon may exercise exclusive regulatory civil jurisdiction, including but not limited to adoption and enforcement of administrative rules and orders, over the following subjects:

(A) management, allocation and administration of fish and wildlife resources, including but not limited to establishment and enforcement of hunting and fishing seasons, bag limits, limits on equipment and methods, issuance of permits and licenses, and approval or disapproval of hatcheries, game farms, and other breeding facilities;<sup>7</sup> *Provided*, That nothing herein shall be construed to permit the State of Oregon to manage fish or wildlife habitat on Coquille Forest lands;

(B) allocation and administration of water rights, appropriation of water and use of water;

(C) regulation of boating activities, including equipment and registration requirements, and protection of the public's right to use the waterways for purposes of boating or other navigation;

(D) fills and removals from waters of the State, as defined in Oregon law;

(E) protection and management of the State's proprietary interests in the beds and banks of navigable waterways;

(F) regulation of mining, mine reclamation activities, and exploration and drilling for oil and gas deposits;

(G) regulation of water quality, air quality (including smoke management), solid and hazardous waste, and remediation of releases of hazardous substances;

(H) regulation of the use of herbicides and pesticides; and

(I) enforcement of public health and safety standards, including standards for the pro-

tection of workers, well construction and codes governing the construction of bridges, buildings, and other structures.

**(11) Savings clause, State authority**

(A) Nothing in this subsection shall be construed to grant tribal authority over private or State-owned lands.

(B) To the extent<sup>8</sup> that the State of Oregon is regulating the foregoing areas pursuant to a delegated Federal authority or a Federal program, nothing in this subsection shall be construed to enlarge or diminish the State's authority under such law.

(C) Where both the State of Oregon and the United States are regulating, nothing herein shall be construed to alter their respective authorities.

(D) To the extent that Federal law authorizes the Coquille Indian Tribe to assume regulatory authority over an area, nothing herein shall be construed to enlarge or diminish the tribe's<sup>9</sup> authority to do so under such law.

(E) Unless and except to the extent that the tribe<sup>9</sup> has assumed jurisdiction over the Coquille Forest pursuant to Federal law, or otherwise with the consent of the State, the State of Oregon shall have jurisdiction and authority to enforce its laws addressing the subjects listed in subparagraph 10<sup>10</sup> of this subsection on the Coquille Forest against the Coquille Indian Tribe, its members and all other persons and entities, in the same manner and with the same remedies and protections and appeal rights as otherwise provided by general Oregon law. Where the State of Oregon and Coquille Indian Tribe agree regarding the exercise of tribal civil regulatory jurisdiction over activities on the Coquille Forest lands, the tribe<sup>9</sup> may exercise such jurisdiction as its<sup>11</sup> agreed upon.

**(12) Conflict between laws**

In the event of a conflict between Federal and State law under this subsection, Federal law shall control.

(Pub. L. 101-42, §5, June 28, 1989, 103 Stat. 92; Pub. L. 104-208, div. B, title V, §501, Sept. 30, 1996, 110 Stat. 3009-537.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

The Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon" (the O&C Act), approved August 28, 1937 (43 U.S.C. 1181a et seq.), referred to in subsec. (d)(4)(C), is act Aug. 28, 1937, ch. 876, 50 Stat. 874, which enacted sections 1181a to 1181f of Title 43, Public Lands, repealed section 1174 of Title 43, and enacted provisions set out as a note under section 1181a of Title 43. For complete classification of this Act to the Code, see Tables.

The Endangered Species Act, referred to in subsec. (d)(5), probably means the Endangered Species Act of

<sup>8</sup> So in original. Probably should be "extent".

<sup>9</sup> So in original. Probably should be capitalized.

<sup>10</sup> So in original. Probably should be "paragraph (10)".

<sup>11</sup> So in original. Probably should be "is".

1973, Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

Public Law 101-630, 25 U.S.C. 3107, referred to in subsec. (d)(5), is probably a reference to section 308 of Pub. L. 101-630, which is classified to section 3107 of this title.

The Indian Self-Determination Act, referred to in subsec. (d)(6), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

#### AMENDMENTS

1996—Subsec. (d). Pub. L. 104-208 added subsec. (d).

#### CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

#### § 715d. Criminal and civil jurisdiction

The State shall exercise criminal and civil jurisdiction within the boundaries of the reservation, in accordance with section 1162 of title 18, and section 1360 of title 28, respectively. Retraction of such jurisdiction may be obtained pursuant to section 1323 of this title.

(Pub. L. 101-42, § 6, June 28, 1989, 103 Stat. 92.)

#### § 715e. Membership rolls

##### (a) Compilation of tribal membership roll

Within one year of June 28, 1989, the Secretary shall compile a roll of the Coquille Indian Tribe.

##### (b) Criteria for enrollments

(1) Until a tribal constitution is adopted, a person shall be placed on the membership roll if the individual is living, is not an enrolled member of another federally recognized tribe, is of Coquille ancestry, possesses at least one-eighth or more of Indian blood quantum and if—

(A) that individual's name was listed on the Coquille roll compiled and approved by the Bureau of Indian Affairs on August 29, 1960;

(B) that individual was not listed on but met the requirements that had to be met to be listed on the Coquille roll compiled and approved by the Bureau of Indian Affairs on August 29, 1960; or

(C) that individual is a lineal descendant of an individual, living or dead, identified by subparagraph (A) or (B).

(2) After adoption of a tribal constitution, said constitution shall govern membership in the Tribe: *Provided*, That in addition to meeting any other criteria imposed in such tribal constitution, any person added to the roll has to be of Coquille Indian ancestry and cannot be a member of another federally recognized Indian tribe.

##### (c) Conclusive proof of Coquille ancestry and degree of Indian blood quantum

For the purpose of subsection (b) of this section, the Secretary shall accept any available evidence establishing Coquille ancestry and the required amount of Indian blood quantum. How-

ever, the Secretary shall accept as conclusive evidence of Coquille ancestry information contained in the Coquille roll compiled by the Bureau of Indian Affairs on August 29, 1960, and as conclusive evidence of Indian blood quantum the information contained in the January 1, 1940, census roll of nonreservation Indians of the Grand Ronde-Siletz Agency.

(Pub. L. 101-42, § 7, June 28, 1989, 103 Stat. 93.)

#### § 715f. Interim government

Until a new tribal constitution and bylaws are adopted and become effective under section 715g of this title, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Tribal Council of the Coquille Tribe on June 28, 1989, and the Interim Council shall continue to operate in the manner prescribed for the Tribal Council under the tribal bylaws adopted on April 23, 1979. Any new members filling vacancies on the Interim Council must meet the criteria for enrollment in section 715e(b) of this title and be elected in the same manner as are Tribal Council members under the April 23, 1979, bylaws.

(Pub. L. 101-42, § 8, June 28, 1989, 103 Stat. 93.)

#### § 715g. Tribal constitution

##### (a) Election; time and procedure

Upon the completion of the tribal membership roll and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution for the Tribe. Absentee balloting shall be permitted regardless of voter residence. In every other regard, the election shall be held according to section 476 of this title.

##### (b) Election of tribal officials; procedures

Not later than one hundred and twenty days after the Tribe adopts a constitution and bylaws, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the tribal constitution. Said election shall be conducted according to the procedures stated in paragraph<sup>1</sup> (a) of this section except to the extent that said procedures conflict with the tribal constitution.

(Pub. L. 101-42, § 9, June 28, 1989, 103 Stat. 93.)

#### § 715h. Land and interests of Coquille Indian Tribe, Oregon

##### (a) In general

Subject to subsections (b), (c), and (d) notwithstanding any other provision of law (including regulations), the Coquille Indian Tribe of the State of Oregon (including any agent or instrumentality of the Tribe) (referred to in this section as the "Tribe"), may transfer, lease, encumber, or otherwise convey, without further authorization or approval, all or any part of the Tribe's interest in any real property that is not held in trust by the United States for the benefit of the Tribe.

##### (b) Nonapplicability to certain conveyances

Subsection (a) shall not apply with respect to any transfer, encumbrance, lease, or other con-

<sup>1</sup> So in original. Probably should be "subsection".