

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4119

To declare that certain public domain lands are held in trust for the Confederated Tribes of Siletz Indians of Oregon, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 1994

Mr. KOPETSKI introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To declare that certain public domain lands are held in trust for the Confederated Tribes of Siletz Indians of Oregon, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. DEFINITIONS.**

4       For purposes of this Act:

5               (1) The term “Tribe” means the Confederated  
6       Tribes of Siletz Indians of Oregon.

7               (2) The term “Secretary” means the Secretary  
8       of the Interior.

1 **SEC. 2. ADDITION TO RESERVATION.**

2 (a) TRUST STATUS.—All right, title, and interest of  
3 the United States in and to the surface and mineral es-  
4 tates of certain lands located in Lincoln County, Oregon,  
5 that are public domain lands other than—

6 (1) National Forest lands,

7 (2) the lands of the Oregon and California Rail-  
8 road, and

9 (3) the Yaquina Head Outstanding Natural  
10 Area,

11 are held in trust by the United States for the benefit of  
12 the Tribe.

13 (b) RESERVATION.—Lands held in trust under sub-  
14 section (a) shall be part of the reservation of the Confed-  
15 erated Tribes of Siletz Indians of Oregon.

16 (c) LEGAL DESCRIPTION.—The Secretary shall pub-  
17 lish in the Federal Register a legal description of the lands  
18 that are held in trust under subsection (a).

19 **SEC. 3. MANAGEMENT OF RESOURCES.**

20 (a) GENERAL AUTHORIZATION.—(1) Notwithstand-  
21 ing the Act of September 4, 1980 (94 Stat. 1072; 25  
22 U.S.C. 711e note); sections 2116 and 2118 of the Revised  
23 Statutes (25 U.S.C. 177, 180); the Act of February 16,  
24 1889 (25 Stat. 673; 25 U.S.C. 196); sections 5, 7, and  
25 8 of the Act of June 25, 1910 (36 Stat. 857; 25 U.S.C.  
26 202, 407, 406); section 6 of the Act of June 18, 1934

1 (48 Stat. 986; 25 U.S.C. 466); or any other provision of  
2 law, the Tribe is authorized to—

3 (A) manage, harvest, remove, sell, or otherwise  
4 alienate any timber, any interests in timber, or any  
5 other surface or subsurface resources on any lands  
6 held by, or in trust for, the Tribe; and

7 (B) perform any other activities on such lands  
8 incidental to the activities described in subparagraph  
9 (A), including forest presale activities and road con-  
10 struction and maintenance.

11 (2) Notwithstanding any other provision of law—

12 (A) the United States shall not be responsible  
13 for the care or management of any lands for which  
14 the Tribe has assumed responsibility under para-  
15 graph (1); and

16 (B) the United States shall not be liable for any  
17 action or omission of the Tribe that arises in connec-  
18 tion with the activities the Tribe is authorized to  
19 conduct under paragraph (1).

20 (b) ELECTION TO ASSUME RESPONSIBILITY.—The  
21 Tribe may make an election to assume responsibility under  
22 subsection (a)(1) for the care and management of lands  
23 held by, or in trust for, the Tribe.

24 (c) OREGON FOREST PRACTICES ACT.—(1) If the or-  
25 dinances of the Tribe do not include an ordinance that

1 is substantially in accord with the Oregon Forest Practices  
2 Act (Or. Rev. Stat. 527.610, et seq.) and the rules promul-  
3 gated under such Act, as determined by the Secretary in  
4 consultation with the Oregon State Forester, the Tribe  
5 shall enforce such Act and rules with respect to lands held  
6 by, or in trust for, the Tribe as though such Act and rules  
7 were ordinances of the Tribe. The Secretary shall publish  
8 in the Federal Register any ordinance of the Tribe that  
9 is substantially in accord with such Act and rules and any  
10 amendments.

11 (2)(A) Notwithstanding the sovereign immunity of  
12 the Tribe, the State of Oregon or any person who is dam-  
13 aged by any action or omission of the Tribe that con-  
14 stitutes a violation of—

15 (i) an ordinance of the Tribe that is substan-  
16 tially in accord with the Oregon Forest Practices Act  
17 and the rules promulgated under such Act, or

18 (ii) if such an ordinance is not in effect, the Or-  
19 egon Forest Practices Act or any rule promulgated  
20 under such Act made applicable to the Tribe by  
21 paragraph (1),

22 may bring a civil action in the tribal court of the Tribe  
23 to compel compliance, to seek compensation for such dam-  
24 ages, or to obtain both compliance and compensation.

1 (B) If the Tribe does not have a tribal court with  
2 jurisdiction to hear the actions described in subparagraph  
3 (A), the State of Oregon or any person described in sub-  
4 paragraph (A) may bring a civil action in the United  
5 States District Court for the District of Oregon to obtain  
6 the relief described in subparagraph (A), and the United  
7 States District Court is authorized to provide that relief.

8 (C) The Tribe may be held liable for damages in any  
9 civil action brought under subparagraphs (A) or (B) only  
10 to the extent that the United States would have been held  
11 liable for damages if the Secretary were responsible for  
12 the action or omission upon which the civil action is based.

13 (D) The courts of the State of Oregon shall not have  
14 jurisdiction over any civil action described in subpara-  
15 graph (A) and shall not have the authority to provide the  
16 relief described in subparagraph (A).

17 (d) TERMINATION OF RESPONSIBILITIES.—(1) If the  
18 Tribe assumes responsibility under subsection (a)(1) for  
19 any of the activities described in subsection (a)(1), the  
20 Tribe may terminate such responsibility by providing writ-  
21 ten notice of such termination that shall take effect on  
22 either—

23 (A) the date that is one year after the date on  
24 which notice of the termination is submitted to the  
25 Secretary, or

1 (B) a date upon which the Secretary and the  
2 Tribe have agreed.

3 The Secretary shall publish in the Federal Register ad-  
4 vance notice of the date on which such termination is to  
5 take effect.

6 (2) The termination under paragraph (1) of any re-  
7 sponsibility assumed under subsection (a)(1) shall not—

8 (A) affect the liability of the Tribe arising out  
9 of any action or omission of the Tribe that occurred  
10 on or before the effective date of the termination;

11 (B) transfer any liability to the United States  
12 for such actions or omissions;

13 (C) obligate the United States to reforest any  
14 area, or otherwise remedy any condition, by reason  
15 of such actions or omissions; or

16 (D) affect the eligibility of the Tribe for any  
17 services or assistance that are provided by the Sec-  
18 retary to Indian tribes because of their status as In-  
19 dian tribes.

20 (e) FUNDS.—(1) For each fiscal year for which the  
21 Tribe assumes responsibility under subsection (a)(1) for  
22 any of the activities described in subsection (a)(1), the  
23 Secretary shall pay to the Tribe, out of funds appropriated  
24 for such fiscal year under the authority of the Act of No-  
25 vember 2, 1921 (42 Stat. 208; 25 U.S.C. 13), popularly

1 known as the Snyder Act, or under the authority of any  
2 other law which authorizes funds to be appropriated for  
3 tribal timber management, an amount that equals or ex-  
4 ceeds the amount of funds the Tribe would have received  
5 for such fiscal years for carrying out such activities under  
6 a contract entered into with the Secretary for such fiscal  
7 year under the Indian Self-Determination Act if the Tribe  
8 had not assumed responsibility for such activities under  
9 subsection (a)(1).

10 (2) If the Tribe receives funds under paragraph (1)  
11 for any fiscal year—

12 (A) the Tribe shall submit to the Secretary a  
13 report which provides an accounting of how the  
14 funds were expended, and

15 (B) the Comptroller General of the United  
16 States is authorized to conduct, at the discretion of  
17 the Comptroller General, an audit of the Tribe with  
18 respect to the expenditure of such funds.

19 **SEC. 4. PROCEEDS FROM RESOURCES.**

20 (a) PAYABLE TO TRIBE.—Notwithstanding any other  
21 provision of law, the proceeds from the sale of timber on,  
22 or the sale of any other surface or subsurface resource  
23 of, lands held by, or in trust for, the Tribe that occur after  
24 the date of enactment of this Act (including sales occur-  
25 ring after such date under a contract that was entered

1 into by the United States prior to the date of enactment  
2 of this Act) shall be paid to the Tribe.

3 (b) TREATMENT.—None of the proceeds described in  
4 subsection (a) that are paid to the Tribe shall be subject  
5 to Federal or State income taxes or be considered as in-  
6 come or resources of the members of the Tribe in deter-  
7 mining eligibility for, or the amount of assistance under,  
8 the Social Security Act or any other program assisted by  
9 the Federal Government.

10 **SEC. 5. PAYMENTS IN LIEU OF TAXES.**

11 In order to offset the loss of revenue caused by the  
12 other provisions of this Act, the Tribe shall pay the County  
13 of Lincoln, Oregon, for the 25-year period beginning on  
14 the date of enactment of this Act, 1.5 percent of the net  
15 revenues from timber harvested from the lands that are  
16 declared to be held in trust for the Tribe under section  
17 2(a).

18 **SEC. 6. CONSTRUCTION OF THIS ACT.**

19 Nothing in this Act, and no actions taken by reason  
20 of this Act shall—

21 (1) affect any rights any person (other than the  
22 United States) has on the day before the date of en-  
23 actment of this Act in the lands that are declared  
24 to be held in trust for the Tribe under section 2(a);

1           (2) be construed to authorize the taxation of  
2 timber on such lands or of any interest in, or re-  
3 sources located on, such lands;

4           (3) be construed to authorize the alienation of  
5 any such interest of the Tribe in any real property  
6 other than timber or other surface or subsurface re-  
7 sources or such lands;

8           (4) affect the responsibility of the United States  
9 to protect the lands held in trust for the benefit of  
10 the Tribe, and lands otherwise subject to restrictions  
11 imposed by the United States on alienation, from  
12 taxation and from alienation of any interest in such  
13 lands, other than in the timber, surface resources, or  
14 subsurface resources on such lands;

15           (5) preclude the Secretary from approving  
16 under part 151 of title 25 of the Code of Federal  
17 Regulations applications for trust status for any ad-  
18 ditional lands acquired by the Tribe;

19           (6) except as provided in section 3(b) and para-  
20 graph (7), affect the regulatory authority of the  
21 Tribe over lands held by, or in trust for the Tribe;

22           (7) grant or restore any hunting, fishing, or  
23 trapping rights of any nature, including any indirect  
24 or procedural right or advantage to the Tribe or any  
25 member of the Tribe; or

1           (8) diminish any hunting, fishing, or trapping  
2           rights that existed before the date of enactment of  
3           this Act.

4 **SEC. 7. PUBLIC ACCESS.**

5           The Tribe may restrict access to the lands that are  
6           declared to be held in trust for the Tribe under section  
7           2(a) to the extent that the Secretary is allowed to impose  
8           or enforce restrictions on access to public domain lands  
9           under Federal law.

10 **SEC. 8. PRODUCTION OF WOOD PRODUCTS IN UNITED**  
11 **STATES.**

12           (a) MANDATORY OFFERING OF 50 PERCENT OF AN-  
13 NUAL SALES.—The Tribe shall offer not less than 50 per-  
14 cent of the total sales volume for each year of timber har-  
15 vested from the lands declared to be held in trust for the  
16 Tribe under section 2(a) for sale to United States entities  
17 that agree to use the timber purchased for production in  
18 the United States of wood products.

19           (b) APPLICATION OF SECTION.—Nothing in this Act  
20 may be construed to impose any restrictions on the export  
21 of timber harvested from, or other surface or subsurface  
22 resources removed from, any lands held by, or in trust  
23 for, the Tribe other than the lands declared to be held  
24 in trust for the Tribe under section 2(a).

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