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PERMANENT ADMINISTRATIVE ORDER

FILED
05/22/2025 12:50 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

DFW 39-2025
CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILING CAPTION: Rescind 1980 Agreement between Confederated Tribes of the Siletz Indians, State of Oregon, and USA

EFFECTIVE DATE: 05/22/2025

AGENCY APPROVED DATE: 03/14/2025

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RULES:
635-041-0500, 635-041-0510, 635-041-0515, 635-041-0520, 635-800-0500

REPEAL: 635-041-0500

RULE TITLE: Cultural Salmon Fishery Definitions

NOTICE FILED DATE: 01/24/2025

RULE SUMMARY: Repeals the 1980 Agreement between the State of Oregon, Siletz Tribe, and the United States that was implemented via OARs 635-041-0500, 635-041-0510, 635-041-0515, and 635-041-0520. Amends OAR 635-800-0500 to conform to federal law and confirm the voluntary relationship between the State of Oregon and the Confederated Tribes of Siletz Indians related to management of tribal members' participation in hunting, fishing, trapping, and gathering under state law.

RULE TEXT:
In addition to the definitions provided in other rules of the Department, the following definitions shall apply to OAR 635-041-0500 through 635-041-0520:
(1) "Agreement" means the Agreement Among the State of Oregon, United States of America and the Confederated Tribes of Siletz Indians of Oregon to Permanently Define Tribal Hunting, Fishing, Trapping, and Gathering Rights of the Siletz Tribe and its Members, signed by the parties to the Agreement and dated April 22, 1980, and referred to in United States Public Law 96-340 (see Exhibit 1 in OAR 635-041-0600).
(2) "Dip Net" means a net with a mesh size no larger than five inches (measured from the inside of one vertical knot to the outside of the opposite vertical knot), attached to a hoop no larger than four (4) feet in diameter and attached directly to a handle; dip nets shall be attended at all times.
(3) "Spear" means a hand-propelled barbed single or multiple point device attached directly to a long shaft; no multiple pointed spear shall have an overall width greater than eight inches.
(4) "Gaffhook" means a large, strong, single point hook attached directly to a handle.
EXHIBIT 1 (635-041-0500) AGREEMENT
AMONG THE STATE OF OREGON, THE UNITED STATES OF AMERICA AND THE CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON TO PERMANENTLY DEFINE TRIBAL HUNTING, FISHING, TRAPPING, AND

GATHERING RIGHTS OF THE SILETZ TRIBE AND ITS MEMBERS

1. Parties. The following entities are the parties to the agreement and they shall be defined for the purpose of this agreement as follows:

a. “Tribe” shall mean the Confederated Tribes of Siletz Indians of Oregon, as referred to in Public Law 95-195, 91 Stat. 1415 (currently codified at 25 USC S § 711–711f), and all tribal members, present and future.

b. “State” shall mean the State of Oregon acting through the Oregon Department of Fish and Wildlife, and administrative agency of the State of Oregon; the Department of Justice of the State of Oregon; the Oregon State Police; and any successor agencies or officials of the State of Oregon that may have regulatory jurisdiction over the harvest of fish or wildlife within the State of Oregon.

c. “Department” shall mean the Oregon Department of Fish and Wildlife and any successor agencies that may have regulatory jurisdiction over the harvest of fish or wildlife within the State of Oregon.

d. “The United States” shall mean the United States of America; the United States Department of the Interior and agencies within that department; and the United States Department of Justice and agencies within that department. The United States is a party to this agreement solely in its capacity as trustee for the Tribe and its members.

2. Statement of Purpose. This agreement has been negotiated because of the following factors:

a. The nature and extent of tribal hunting, fishing, gathering, and trapping rights are presently unknown. They have not been defined by any court. The question is exceedingly complex, involving numerous acts of Congress, executive orders, and treaties. Siletz hunting and fishing rights have been and are now the subject of significant controversy. The Tribe contends that it possesses tribal hunting, fishing, trapping and gathering rights.The State, on the other hand, disagrees and presently enforces state law whenever the Tribe or its members hunt, fish, trap, or gather, contrary to any provision of the law.

b. Thus, in order to resolve this controversy and to promote sound and orderly management and conservation of fish and wildlife resources, it is the desire of the parties to define, specifically and permanently, the nature and extent of the Tribe’s rights.

3. Controlling Principles. This agreement shall be construed in accordance with the following principles:

a. This agreement shall fully and completely define the tribal hunting, fishing, trapping, and gathering rights, and no special tribal rights shall hereafter exist except those which are specifically set forth in this agreement.

b. Any hunting, fishing, trapping, and gathering, including method, time, and place, which is conducted by the Tribe or its members and which is not specifically permitted by this agreement shall be subject to regulation under applicable state laws.

c. The parties are determined to implement this agreement in a cooperative and positive manner. The parties intend to assist each other in the implementation of this agreement and to exchange among themselves all documents and other information concerning the implementation of this agreement.

d. All of the parties have negotiated this agreement voluntarily; have signed it free of any pressure, coercion or duress of any kind; and have been extensively advised by counsel, all of whom are intimately familiar with the legal issues addressed by this agreement. The parties have all had full access to all of the relevant facts, legislative history, and judicial precedent. The parties, therefore, intend this agreement to be the sole, exclusive statement of any special hunting, fishing, trapping, and gathering rights which the Tribe does possess and of those which it does not possess. The parties expressly intend that this agreement shall not be contested or reopened at any time.

e. The Tribe is a sovereign government and is legally empowered to represent its members in this agreement. This agreement, therefore, shall be permanently binding on all tribal members, present and future.

f. The parties agree that the State shall retain the sovereign authority to manage fish and wildlife resources, both on and off Tribe’s reservation, subject to the provisions of this agreement.

g. This agreement is based on the special circumstances surrounding the relationships of the parties and does not affect the rights of any persons, tribes, or groups who are not parties to this agreement.

4. Fishing Rights. In addition to those fishing rights or privileges accorded to citizens or licensees of the State under state law, the Tribe shall have the rights set forth in this paragraph.

a. The Cultural Fishery.
(1) The Tribe shall have the opportunity to harvest 200 salmon, regardless of size, per year from sites on tributaries of the Siletz River according to the provisions of this agreement. The parties acknowledge that actual annual salmon harvest may be less than 200 salmon because of water conditions, varying run sizes, and fishing effort. Furthermore, the parties agree that there shall be no makeup of salmon harvest in subsequent years if harvest is less than 200 salmon in any single year. No state license shall be required for salmon taken pursuant to this section.
(2) The only permissible means of harvest shall be dip nets, spears, and gaffhooks. “Dip net” shall mean a net with a mesh size no larger than 5 inches (measured from the inside of one vertical knot to the outside of the opposite vertical knot), attached to a hoop no larger than 4 feet in diameter and attached directly to a handle; dip nets shall be attended at all times. “Spear” shall mean a hand-propelled barbed single or multiple point device attached directly to long shaft; no multiple pointed spear shall have an overall width greater than 8 inches. “Gaffhook” shall mean a large, strong, single point hook attached directly to a handle.
(3) Harvesting by the Tribe shall occur only during salmon runs as set forth herein. The tribal fishing season, up to but not to exceed 60 days, shall be established by the Department after consultation with the Tribe each calendar year during the period of the more active part of the fall salmon run. All tribal salmon fishing shall occur during those regular hours set for salmon angling by the Commission. The establishment of any special tribal fishing season is subject to the State’s authority to regulate for conservation purposes and for protection of steelhead.
(4) The harvest of salmon shall be permitted only at the following specific tributary locations:
(a) Euchre Creek Falls, which is a single falls, and a site located approximately between river mile 2.8 and 3.0 in Section 11, T9S, R10W, W.M.;
(b) Dewey Creek Falls, which is a series of falls located approximately between river mile 0.4 and 0.5 in Section 7, T10S, R10W, W.M.; and
(c) A single site on Rock Creek, as agreed upon in writing by the Tribe and the Department.
The Tribe and the Department may agree in writing upon replacement sites on tributaries of the Siletz River if fishing or management at any of the above sites becomes impractical. The Department shall manage, and where appropriate, enhance the salmon resource in each designated stream, consistent with sound principles of fishery science.
(5) All tribal fishing pursuant to this agreement shall be subject to all of the rights of private landowners and tenants under state trespass laws and other applicable provisions.
(6) All harvesting of salmon shall be in accordance with the licensing and tagging procedures set forth in section 7, below.
b. The Subsistence Supply. In addition to the right to harvest salmon from tributaries of the Siletz River as set forth above, the Tribe shall have the right to receive, at its option, 4000 pounds annually of surplus salmon carcasses from a source to be determined by the Department. These fish shall be fit for human consumption and grade one fish shall be supplied if available. After the State has sorted the surplus salmon and has determined which fish are available for consumption, the Tribe may at its option participate in the final selection of these fish. An authorized agent of the Tribe shall be responsible for pickup of salmon carcasses at an appropriate location or locations designated by the Department and reasonably convenient to the Tribe. The Tribe shall make all arrangements for the consumption of such fish, but such fish shall not be used for any commercial purpose.
c. Prohibited Acts. The following acts shall not be included within the Tribe’s special fishing rights and are subject to regulation under applicable state or federal law:
(1) The taking of steelhead or game fish other than salmon.
(2) Net fishing, including gill netting, except that dip netting will be permitted as defined in this agreement.
(3) The use of fish, or parts thereof, for commercial purposes.
(4) The taking of fish in a geographic area other than those established pursuant to this agreement.
(5) The taking of fish in excess of the number specified in this agreement.
(6) The taking of fish in violation of any of the limitations set forth in this section 4 or of the licensing and tagging provisions as set forth in section 7 below.

5. Hunting Rights. In addition to those hunting rights or privileges accorded to citizens or licensees of the State under state law, the Tribe shall have the rights set forth in this paragraph.
(a) Cultural Hunting.
(1) The Tribe shall have the opportunity to harvest a total of 400 deer and elk per year (which total shall not include more than 25 elk) within the following two units, as those units were defined as of the date at this agreement: The Stott Mountain Management Unit and that portion of the Alsea Management Unit which lies north of Oregon Highway 34 and west of Oregon Highway 223. The parties acknowledge that the annual harvest may be less than 400 animals and that there shall be no makeup of deer or elk harvest in subsequent years. No state license shall be required for game taken pursuant to this section. Tribal hunting shall be subject to the State's right to regulate for conservation purposes.
(2) All hunting pursuant to this agreement shall occur only during deer and elk seasons prescribed by the State for all citizens in the geographic area described in section 5(a)(1), above. If the State prescribes a controlled deer or elk season in the described geographical area whereby participants must draw for permits, the State shall provide permits to the Tribe, at the Tribe's option, for the controlled hunt of up to 10 percent of the total controlled tags authorized for all citizens. Such permits for controlled hunts shall be valid only when used with an unused tribal tag and shall be counted as part of the 400 total tags issued pursuant to section 5. Weapons, antler regulations, methods, and other regulations for tribal hunting shall be the same as established by the State for all citizens.
(3) All tribal hunting pursuant to this agreement shall be subject to all of the rights of private landowners and tenants under state trespass laws and other applicable provisions.
(4) All hunting pursuant to this section shall be in accordance with the licensing and tagging procedures set forth in section 7 below.
b. The Subsistence Supply. In addition to the Tribe's right to harvest deer and elk as set forth above, the State shall make available to the Tribe, at the Tribe's option, a substantial portion of the deer and elk carcasses received by State agencies in Lincoln County. The State shall promptly advise the Tribe of available carcasses. The Tribe shall be responsible for pickup and any costs for processing.
c. Prohibited Acts. The following acts shall not be included within the Tribe's special hunting and trapping rights and are subject to regulation under applicable state or federal law:
(1) The hunting or trapping of animals other than deer and elk.
(2) The use of deer or elk meat for commercial purposes.
(3) The taking of deer or elk in a geographic area other than that described in section 5(a)(1), above.
(4) The taking of deer or elk in excess of the number specified in this agreement.
(5) The taking of deer or elk in violation of any of the limitations set forth in this section 5 or of the licensing and tagging provisions, as set forth in section 7 below.
6. Trapping and Cultural Gathering. The Tribe shall have no special trapping rights. The Tribe and its members shall have the right to gather eels (lampreys), seaweed, and fresh water mussels within Lincoln County for non-commercial uses subject to the State's right to regulate for conservation purposes. Gathering of sea anemones, rock oysters (piddocks), and saltwater mussels by tribal members shall be subject to all applicable state laws, except that upon request of the Tribe, the Department may issue special gathering permits which will provide the Tribe an opportunity to gather these animals within Lincoln County for ceremonial and subsistence purposes. The Department shall designate the number of special gathering permits to be issued annually, the quantity of animals to be harvested, size limits, gear, degree of allowable removal, and area of harvest. A valid tribal license issued pursuant to this agreement may be used in lieu of any personal use state license that may be required for such gathering of the above listed species and clams.
7. Licensing and Tagging System. The Tribe and its members shall not exercise any of the special rights provided for in this agreement to harvest salmon, deer, or elk (referred to as "animals" in this section), except pursuant to the terms of this section. Any person who has not complied fully with the provisions of this section shall be subject to prosecution under state law. Except for the provisions of this section, no state licenses or tags shall be required for animals taken pursuant to this agreement.
a. Every tribal member exercising tribal fishing or hunting rights shall have in possession a valid tribal license (containing

at a minimum the member's name, photograph, and enrollment number) and a valid tag issued pursuant to this section for the type of animal being sought.
b. The State shall annually issue without charge to the Tribe 200 salmon tags, 375 deer tags, and 25 combination tags valid for taking either one deer or one elk. The Tribe shall control the issuance of such tags to its members.
c. Whenever an animal is taken, the tag shall be promptly filled out by the tribal member and promptly affixed to the animal. The information listed on the tag shall be provided to the tribal office within a time period prescribed by the Tribe.
d. The Tribe shall keep accurate, current records concerning the number of animals taken and the persons to whom tags have been issued.
e. Any tribal member shall be subject to state regulation under state law if (1) the tribal member does not have a valid tribal license and a valid applicable tag in possession, (2) a tribal member has not properly filled out a tag and affixed it to the animal, or (3) a tribal member has not complied with all other state tagging, possession, and transportation regulations, so long as they are not inconsistent with this agreement.
f. All tribal records kept pursuant to this section shall be complete and current in all respects, and shall be subject to inspection by the State upon reasonable notice.
g. If the State believes that the tribal licensing and tagging system is inadequate in whole or in part, the State shall so notify the Tribe. The Tribe shall take necessary corrective measures. If the State believes that such corrective measures are inadequate, the State shall negotiate with the Tribe for the assumption of licensing and tagging responsibilities by the State. If agreement is not reached by the parties, the State may petition the United States District Court for an order directing that full control of licensing and tagging be assumed by the State until necessary corrective measures have been taken by the Tribe.
8. Relationship of this Agreement to the Establishment of a Tribal Reservation.
a. This agreement shall contain the exclusive definition of tribal hunting, fishing, trapping, and gathering rights. The creation of a tribal reservation, or the addition of lands to an existing reservation, shall not in any way add to or detract from the provisions of this agreement. All hunting, fishing, trapping, and gathering by the Tribe, on or off any tribal reservation or lands of any tribal member, shall be in accordance with the terms of this agreement.
b. The State shall have the right, subject to the specific provisions of this agreement, to manage all fish and wildlife resources on the tribal reservation, in accordance with applicable provisions of Oregon law.
c. The Tribe intends to leave its reservation open to the public for hunting and fishing and general recreation. The Tribe does not, however, waive any of its rights to close all or part of the reservation when necessary in the future. If there is to be any closure, or partial closure, the Tribe shall consult with the Department before taking action. If the Tribe acquires any land containing any watercourse on which there is now a public right to float or fish from a boat, such public right shall be unaffected by the acquisition of such lands.
d. Whenever the Tribe plans to engage in any activity for which a permit would normally be required from the Department, the Tribe shall consult with the Department and meet the minimum standards established by the Department for such activities.
e. The Tribe agrees that it will meet minimum standards established by state and local laws for resource development activities including but not limited to water development, fill and removal, and timber harvesting. The parties recognize that the Tribe intends to use most of its reservation for the purpose of harvesting timber. The Tribe shall conduct land use planning in an environmentally sound manner generally consistent with state and local land use planning goals.
9. Effective Date of Agreement. No part of this agreement shall be effective until this agreement is approved by the United States District Court and merged into a final and permanent injunction issued by such Court. If such action is taken by the Court, the provisions relating to subsistence fish (section 4(b), above) and subsistence game (section 5(b), above) shall go into effect immediately; the provisions relating to the cultural fishery (section 4(a), above), cultural hunting (section 5(a), above), and cultural gathering (section 6, above) shall go into effect 30 days after the Tribe notifies the State in writing of the establishment of its licensing and tagging procedures (section 7, above).
DATE SIGNED: April 22, 1980.

BY:
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STATUTORY/OTHER AUTHORITY: ORS 496

STATUTES/OTHER IMPLEMENTED: ORS 496

REPEAL: 635-041-0510

RULE TITLE: Applicability of Regulations

NOTICE FILED DATE: 01/24/2025

RULE SUMMARY: Repeals the 1980 Agreement between the State of Oregon, Siletz Tribe, and the United States that was implemented via OARs 635-041-0500, 635-041-0510, 635-041-0515, and 635-041-0520. Amends OAR 635-800-0500 to conform to federal law and confirm the voluntary relationship between the State of Oregon and the Confederated Tribes of Siletz Indians related to management of tribal members' participation in hunting, fishing, trapping, and gathering under state law.

RULE TEXT:
(1) The right to fish in accordance with OAR 635-041-0500 through 635-041-0520 is restricted to those members of the Confederated Tribes of Siletz Indians of Oregon, referred to in Public Law 95-195, 91 Stat. 1415 (currently codified at 25 U.S.C.S. 711-711F), and all tribal members, present and future, and applies only to the cultural fishery described in the Agreement. All other fishing by tribal members must be in accordance with state laws or rules. The attached Agreement is hereby made a part of these rules.
(2) The taking of salmon prescribed in the Agreement and by OAR 635-041-0500 through 635-041-0520 is prohibited except by persons, during times, with the fishing gear, and in the areas specified.
(3) Tribal fishers must have a valid tribal license in his or her possession at all times when fishing pursuant to the Agreement.
(4) Violation of any of the provisions of the Agreement or any of these rules is prohibited.

STATUTORY/OTHER AUTHORITY: ORS 496.138

STATUTES/OTHER IMPLEMENTED: ORS 506.129, 507.030

REPEAL: 635-041-0515

RULE TITLE: Cultural Fishery Gear

NOTICE FILED DATE: 01/24/2025

RULE SUMMARY: Repeals the 1980 Agreement between the State of Oregon, Siletz Tribe, and the United States that was implemented via OARs 635-041-0500, 635-041-0510, 635-041-0515, and 635-041-0520. Amends OAR 635-800-0500 to conform to federal law and confirm the voluntary relationship between the State of Oregon and the Confederated Tribes of Siletz Indians related to management of tribal members' participation in hunting, fishing, trapping, and gathering under state law.

RULE TEXT:
It is lawful to take salmon during the open seasons, prescribed in OAR 635-041-0520 for cultural fishery purposes by dipnets, spears, and gaffhooks.

STATUTORY/OTHER AUTHORITY: ORS 496

STATUTES/OTHER IMPLEMENTED: ORS 496

REPEAL: 635-041-0520

RULE TITLE: Cultural Fishery Seasons and Areas

NOTICE FILED DATE: 01/24/2025

RULE SUMMARY: Repeals the 1980 Agreement between the State of Oregon, Siletz Tribe, and the United States that was implemented via OARs 635-041-0500, 635-041-0510, 635-041-0515, and 635-041-0520. Amends OAR 635-800-0500 to conform to federal law and confirm the voluntary relationship between the State of Oregon and the Confederated Tribes of Siletz Indians related to management of tribal members' participation in hunting, fishing, trapping, and gathering under state law.

RULE TEXT:

(1) Salmon may be taken for cultural fishery purposes from October 1 through November 30 in those areas described in the Agreement and more specifically:

(a) Euchre Creek Falls, a single falls located approximately between stream mile 2.8 and 3.0 in Section 11, T9S, R10W. Upstream boundary designated by an orange-painted 18 20 inch oval area located on the rock face on the right side of the stream approximately 94 feet above the base of the falls. The downstream boundary is designated by an orange-painted area on a large boulder on the left side of the stream approximately 280 feet below the base of the falls;

(b) Dewey Creek Falls, a series of three small falls located approximately between stream mile 0.4 and 0.5 in Section 8, T10S, R10W. The upstream boundary designated by an orange-colored 12 inch triangular piece of aluminum attached to an alder tree on the right side of the stream approximately 53 feet above the base of the upper falls. The downstream boundary designated by an orange-painted 18 20 inch area on a rock ledge on the right side of the stream approximately 290 feet below the base of the upper falls;

(c) Little Rock Creek, in portions flowing through the NE 1/4 and NW 1/4 of Section 7, T10S, R8W, W.M. on land owned by the Confederated Tribes of the Siletz Indians of Oregon. The upstream boundary is designated by a yellow Siletz Tribal marker at Survey Boundary Stake LS1901 located between Little Rock Creek and the Siletz-Nashville Road at approximately stream mile 0.9. The downstream boundary is designated by a yellow Siletz Tribal marker located on a fir Bearing Tree located between Little Rock Creek and the Siletz-Nashville Road at approximately stream mile 0.3;

(d) Within the cultural fishing site on Little Rock Creek, fishing is additionally regulated as follows:

(A) No fishing is allowed within an area 200 feet upstream or downstream of the fish trap operated by the Department and designated by Siletz Tribal markers;

(B) Fishing in the section of Little Rock Creek beginning at the Tribal marker 200 feet downstream from the the Department fish trap and extending downstream 300 feet to a Siletz Tribal marker must occur from platforms or other devices raised above the water surface. Such platforms or devices shall not extend more than one half the width of the stream.

(2) Salmon may be taken for cultural fishery purposes from one hour before sunrise until one hour after sunset.

(3) Salmon taken during the open season set forth in section (1) of this rule shall be tagged immediately upon landing by inserting one of the 200 salmon tags provided to the Confederated Tribe of Siletz by permanently affixing the tag around the lower jaw of the fish. It is unlawful to possess salmon taken during the open season set forth in section (1) of this rule which have not been so tagged.

STATUTORY/OTHER AUTHORITY: ORS 496.138

STATUTES/OTHER IMPLEMENTED: ORS 506.129, 507.030

AMEND: 635-800-0500

RULE TITLE: Memorandum of Agreement with the Confederated Tribes of Siletz Indians

NOTICE FILED DATE: 01/24/2025

RULE SUMMARY: Repeals the 1980 Agreement between the State of Oregon, Siletz Tribe, and the United States that was implemented via OARs 635-041-0500, 635-041-0510, 635-041-0515, and 635-041-0520. Amends OAR 635-800-0500 to conform to federal law and confirm the voluntary relationship between the State of Oregon and the Confederated Tribes of Siletz Indians related to management of tribal members' participation in hunting, fishing, trapping, and gathering under state law.

RULE TEXT:

(1) Members of the Confederated Tribes of Siletz Indians are authorized to take species over which the Oregon Fish and Wildlife Commission has management authority under the terms and conditions of the Memorandum of Agreement between the Confederated Tribes of Siletz Indians and the State of Oregon, by and through the Department of Fish and Wildlife (Department), (the "Siletz-ODFW 2023 Agreement"), and within the geographic scope of that Agreement, entered into by both parties in 2023, incorporated herein by reference.

(2) The Siletz Indian Tribe and the Department will coordinate the use of their respective authorities, expertise and influence as regulatory or voluntary opportunities are presented to protect, enhance and restore fish and wildlife habitat under the terms and conditions of the Siletz-ODFW 2023 Agreement and within the geographic scope of that Agreement.

(3) No additional tribal legal or treaty entitlement is created, conveyed, implied or diminished, nor is any existing agreement, treaty or court decree modified by the adoption of these rules or the Siletz-ODFW 2023 Agreement.

(4) Nothing in the Siletz-ODFW 2023 Agreement shall be construed as:

(a) affirming, recognizing or limiting the rights or claims of any other tribe within the geographic scope of that Agreement;

(b) limiting the Department from entering into separate agreements with other tribes addressing the authority to take species within the geographic scope of that Agreement; or

(c) establishing, expanding, adjudicating, waiving, limiting or otherwise affecting the ancestral, aboriginal, treaty, statutory, equitable, or other rights of the Tribe.

(5) The parties to the Siletz-ODFW 2023 Agreement intend for that Agreement to describe the Confederated Tribes of Siletz Indians' hunting, fishing, trapping and animal gathering opportunities in Oregon, and for the Siletz-ODFW 2023 Agreement to be a voluntary successor the "Agreement Among the State of Oregon, the United States of America and the Confederated Tribes of the Siletz Indians of Oregon to Permanently Define Tribal Hunting, Fishing, Trapping, and Gathering Rights of the Siletz Tribe and its Members" entered into by the United States on April 22, 1980.

STATUTORY/OTHER AUTHORITY: ORS 190.110, 496.138, 496.162, 496.146

STATUTES/OTHER IMPLEMENTED: 496.138, 496.012, 496.162, 496.146, 506.109

MEMORANDUM OF AGREEMENT TO DEFINE EXERCISE OF HUNTING, FISHING, TRAPPING AND GATHERING OF THE SILETZ TRIBE AND ITS MEMBERS AND SETTING OUT PRINCIPLES OF COOPERATIVE MANAGEMENT OF WILDLIFE RESOURCES

Between

The Confederated Tribes of Siletz Indians

And

The State of Oregon, by and through the Oregon Department of Fish and Wildlife

RECITALS:

Whereas, the Confederated Tribes of Siletz Indians ("Siletz Tribe") is a federally-recognized Indian tribe located within the geographic borders of the State of Oregon ("State") comprised of numerous historical tribes and bands from throughout western Oregon who were confederated together and removed and resettled on the Siletz Coast Reservation;

Whereas, the Siletz Tribe asserts an interest in wildlife resources, habitat and management reserved in treaties, statutes, Executive Orders or other authority, and desires to cooperate with the State of Oregon in reaching mutual agreement on subsistence and ceremonial hunting, fishing, trapping and gathering of those resources and engaging in cooperative management activities that will preserve, protect and enhance wildlife habitat and wildlife population numbers in the geographic areas of interest to the Siletz Tribe and its members;

Whereas, the Oregon Department of Fish and Wildlife ("ODFW"), pursuant to its statutory authority including but not limited to ORS 496.012, ORS 496.138 and ORS 496.146, has the responsibility and authority to manage the State's wildlife resources for the benefit of Oregon's citizens;

Whereas, consistent with the wildlife policy of the State of Oregon (ORS 496.012), ODFW's duty is to manage wildlife to prevent serious depletion of any indigenous species and to provide the optimum recreational and aesthetic benefits for present and future generations of the citizens of Oregon;

Whereas, consistent with ORS 496.012, ODFW has an interest in working cooperatively with federally-recognized Indian Tribes located in Oregon on wildlife resource issues;

Whereas, the Siletz Confederated Tribe is a confederation of tribes and bands from throughout western Oregon who were removed or relocated to the Siletz Coast Reservation established by Executive Order on November 9, 1855. Tribes and bands that resided in the area where the reservation was established remained where they were;

Whereas, the Siletz Tribe is comprised of tribes and bands that executed treaties with the United States that were formally ratified by the United States Senate, tribes and bands that executed treaties with the United States that were not ratified by the United States Senate, and tribes and bands that never negotiated treaties with the United States;

Whereas, some or all of these tribes and bands, and individual Indians and families from these tribes and bands, were located on the Siletz Coast Reservation and became part of the Siletz Confederation formed by the United States government and recognized by it as one tribal government;

Whereas, the Siletz Tribe and its constituent bands and tribes assert an interest in the harvest, regulation and management of wildlife resources within territory ceded by various ratified and unratified treaties or based upon aboriginal title, within traditional harvest areas used by the tribes and bands outside ceded areas, and within the reservation(s) set aside by the federal government for the use of the Siletz Confederated Tribe or its constituent bands and tribes;

Whereas, the Siletz Tribe's wildlife resource hunting, fishing, trapping and gathering rights ("HFT&G rights") have never been directly litigated, adjudicated or determined by any court in which the Siletz Tribe has been a party;

Whereas, the Siletz Tribe has a public policy of cooperation and coordination with the State on wildlife resource issues;

Whereas, it is the mission of the Siletz Tribal Natural Resources Department to care for, protect, enhance and provide for the wise use of all of the Tribe's natural

resources in a manner which will ensure that all generations to come will benefit from these resources;

Whereas, it is the mission of the Oregon Department of Fish and Wildlife to protect and enhance Oregon's wildlife resources and their habitats for use and enjoyment by present and future generations;

Whereas, to fulfill these complementary missions, ODFW and the Siletz Tribe ("Parties") have a shared interest in how the wildlife resources, lands and waters of Oregon are managed; and

Whereas, functional, abundant and accessible habitat is the foundation on which wildlife resource populations persist. Challenges to the persistence of native wildlife resources are increasingly complex and intersectional. These challenges primarily influence wildlife resource populations through the quality, quantity, and/or accessibility of available habitat. Wildlife resource habitat will be increasingly impacted by changing land and water use, climate, water quality & quantity, and other anthropogenic issues as Oregon's human population and development needs grow.

NOW THEREFORE, the Parties agree that:

1. Definitions.

a. "Wildlife resources" as used in this Agreement means all animal species over which ODFW exercises management authority, including all mammalian and avian species managed by ODFW, and all finfish, shellfish, crustaceans and other aquatic animals managed by ODFW.

b. "Hunting" and "Trapping" includes take of all mammalian and avian species managed by ODFW, including marine mammals.

c. "Fishing" includes take of all finfish, shellfish, crustaceans, and other aquatic animals managed by ODFW.

d. "Gathering" includes take of any animals such as shellfish, eels, etc., that are managed by ODFW and are gathered rather than hunted or fished.

e. "Commercial harvest" as used in this Agreement means taking wildlife resources in excess of limits permitted for ceremonial, subsistence or personal use, or taking, handling, processing, or otherwise disposing of or dealing in wildlife resources with the intent of disposing of such wildlife resources or parts thereof for profit, or by sale, barter or trade, in commercial channels, except as otherwise permitted under Oregon Revised Statute or Oregon Administrative Rule, including this Agreement.

2. **Authority.** This Agreement is entered into between the Siletz Tribe and the State of Oregon by and through the Oregon Department of Fish and Wildlife ("ODFW"). ODFW has authority to enter into this Agreement pursuant to statutory authority including ORS 190.110, ORS 496.012, ORS 496.138 and ORS 496.146. The Siletz Tribe has authority to enter into this Agreement pursuant to the Siletz Constitution, Article IV, Section 1.

3. **Overview of Agreement.**

a. **Intent of Agreement.** The intent of this Agreement is to set out how the Siletz Tribe and its members will hunt, fish, trap and gather wildlife resources over which ODFW has management authority within the geographic area defined by this Agreement and to set out agreed upon principles for cooperative management of wildlife resources between ODFW and the Siletz Tribe in that area.

b. **General Framework.** This Agreement does not define the specific amount or number of wildlife resources, or the specific seasons that apply to Siletz tribal members' take of wildlife resources. Instead, this Agreement sets out standards and the process for the Tribe to determine tribal harvest limits and areas in cooperation with ODFW, as well as principles of cooperative management of wildlife resources, within a defined geographic area for the purpose of enhancing and perpetuating such wildlife resources. This Agreement also sets out principles for voluntary coordination of enhancement and management of the habitat, watershed, ecosystem and wildlife resources within the defined geographic area.

4. Geographic Scope of Agreement.

a. Geographic Area Included in this Agreement. The geographic area covered by this Agreement shall be the following area:

The original Siletz Coast Reservation established by Executive Order on November 9, 1855. *See* 1 Kappler's Indian Affairs: Laws and Treaties 890-91 (GPO 1906), as modified by the map attached to this Agreement as Appendix A to include cohesive watersheds and other resource features which impact the wildlife resources within the original Reservation area.

This area shall be defined as follows: ODFW Wildlife Management Units 14 (Trask), 17 (Stott Mt), 18 (Alsea), and 20 (Siuslaw).

The geographic area includes, where applicable, the adjacent territorial sea claimed by Oregon.

b. Future Amendments to Geographic Scope. The Siletz Tribe may request that additional geographic areas be added under this Agreement under the terms of Section 12 of this Agreement. ODFW commits to consider such proposals in good faith.

c. Geographic Areas Excluded from this Agreement. The following areas are excluded from the geographic area described in subsection (a):

i. The original Grand Ronde Reservation established by Executive Order on June 30, 1857, except with permission of the Grand Ronde Tribe. *See* 1 Kappler's Indian Affairs: Laws and Treaties 886 (GPO 1906).

ii. Any property held in trust for another federally-recognized Indian tribe within the geographic areas described in subsection (a) of this Section.

iii. The mainstem Columbia River and the Willamette River from its mouth to the top of Willamette Falls.

d. Nothing within this Agreement allows tribal members to access private lands without the permission of the landowner. Private lands includes, but is not limited to, lands owned by other federally-recognized Indian Tribes in fee.

5. Tribal Harvest of Wildlife Resources.

a. Controlling Principles. This Agreement covers hunting, fishing, trapping and gathering by the Siletz Tribe and tribal members of all wildlife resources managed by ODFW within the geographic scope of the Agreement. Harvest of animals, plants and other resources not regulated by ODFW are outside of the scope of this Agreement. Further, the Parties acknowledge that federal law regulates the take of certain species over which ODFW has management authority, and that nothing in this Agreement authorizes take by the Siletz Tribe or tribal members inconsistent with ODFW's authority under federal law.

b. Ceremonial and Subsistence Harvest.

i. **Commercial Harvest Prohibited.** This Agreement is limited to ceremonial and subsistence harvest of wildlife resources within the geographic area defined in this Agreement. Commercial harvest by the Siletz Tribe or tribal members is not permitted or authorized under this Agreement.

ii. **Permitted Commercial Activity.**

a) Enrolled tribal members may exchange (gift, trade, or barter) wildlife or wildlife parts lawfully harvested for ceremonial or subsistence purposes with enrolled members of the Siletz Tribe or other federally-recognized Indian Tribes.

b) Enrolled tribal members may sell traditional or cultural items created from shells of shellfish, or from hides or otoliths of

finfish that tribal members lawfully harvested for ceremonial or subsistence purposes.

c) All other commercial activity with wildlife or wildlife parts lawfully harvested for ceremonial or subsistence purposes must be consistent with Oregon Revised Statute and Oregon Administrative Rule, including sale of wildlife parts associated with Siletz Members' creation of traditional, cultural or other items.

iii. **Framework for Harvest.** The limits and areas of tribal ceremonial and subsistence harvest will be set annually or seasonally by mutual agreement of the Parties based on the best available scientific data of estimated availability, escapement goals, tribal needs, conservation necessity, and ODFW management goals such as those related to research, disease management or population enhancement.

The Siletz Tribe and ODFW will meet initially after the effective date of this Agreement to discuss species and area concerns within the geographic scope of this Agreement, based on the negotiation principles set out in the previous paragraph and a list of species that are of interest for harvest by tribal members. Once these concerns have been negotiated and agreed to, the Parties shall meet as often as necessary to discuss and negotiate annual and seasonal tribal ceremonial and subsistence harvest and to determine the limits and areas of tribal ceremonial and subsistence harvest for the year or season. These annual or seasonal negotiations will include discussion of any modifications needed to the initial harvest agreement, including the addition of new species of interest to tribal members or proposed limitations on the take of certain species where limitations are needed because of conservation necessity, relevant federal or state regulatory needs, or other ODFW wildlife management issues such as research needs, disease management or population enhancement.

Any disagreement regarding tribal ceremonial or subsistence take will be resolved pursuant to the dispute resolution provisions of this Agreement.

iv. ODFW and the Siletz Tribe will voluntarily and fully share all biological/technical data, analyses, and information of any nature each possesses relevant to evaluate the Tribe's annual or seasonal harvest proposal.

v. Upon reaching agreement on limits and areas for ceremonial and subsistence harvest, ODFW will issue the Tribe an Annual Implementing Permit consistent with the Parties' agreement, which is incorporated by reference into the tribally-issued licenses and tags that authorize tribal harvest of fish and wildlife. The Siletz Tribe believes that tribal authority to issue licenses and tags and regulate tribal wildlife harvesting is a matter of tribal sovereignty and exists independently of any State-issued permit.

c. Special Areas.

i. **Fish and Shellfish Harvest.** Siletz tribal members are authorized to harvest fish and shellfish for subsistence and ceremonial purposes within the geographic scope of this Agreement within areas that are owned or managed by ODFW, excluding marine reserves and marine protected areas except as set forth below, but including marine gardens, research reserves, shellfish preserves, habitat refuges, and similar type areas where ODFW's management authority is not restricted by federal law, State law, or other agreement, provided that the Siletz Tribe will coordinate such reasonable harvest opportunities with ODFW to cause minimal disruption to the purposes or function of the area. Within marine reserves and marine protected areas, Siletz tribal members are authorized to harvest fish and shellfish within the geographic scope of this Agreement for subsistence and ceremonial purposes, provided that Siletz members shall follow the Oregon Sport Fishing Regulations and Oregon statutes which may restrict harvest opportunities in those areas.

ii. **Hunting and Trapping.** Siletz tribal members are authorized to hunt and trap wildlife resources on ODFW owned or managed lands only in accordance with Oregon Administrative Rules applicable to the location, including method of harvest. The Siletz Tribe may request special access and opportunity for their members, or changes to other aspects of the regulations for hunting or trapping activities on any of these lands that deviate from currently applicable regulation through the Siletz Tribe's annual harvest proposal. ODFW commits to consider such proposals with the goal of providing the requested access and opportunity while preserving the conservation, management and safety objectives of the regulations applicable to the area(s).

d. **Method.** Method of harvest shall be subject exclusively to tribal decision, except that harvest in special areas listed in section 5(c) above must be consistent with Oregon Administrative Rules for the species and area of harvest.

e. **Licensing and Tagging; Tribal Regulation.** Licensing and tagging for all resource harvest activities authorized and permitted under this Agreement shall be subject to tribal regulation and management. All harvest of wildlife resources by Siletz tribal members shall be consistent with tribal law and regulation and with this Agreement. The Siletz Tribe shall collect and report license, tag, and harvest numbers to ODFW on an annual basis or as otherwise requested by ODFW.

In order to aid the Parties' mutual goal of avoiding enforcement confusion, tribal members hunting, fishing or trapping pursuant to this Agreement will carry tribal identification and tribally-authorized tags showing that the Siletz Tribe has authorized take of that species and will present the same to law enforcement officers, peace officers, and ODFW personnel upon request.

f. **Communication.** In order to aid the Parties' mutual goal of avoiding enforcement confusion, ODFW and the Siletz Tribe will develop and

implement a communication plan that seeks to provide adequate notice to ODFW and OSP staff in the relevant regions about upcoming ceremonial and subsistence hunting, fishing, trapping, or gathering opportunities exercised or implemented under this Agreement.

g. **Enforcement.** ODFW and the Siletz Tribe understand that tribal members engaged in harvest related activities under this Agreement may be cited by either State or Tribal enforcement authorities for the alleged violations of State or tribal law. The goal of the Tribe and ODFW is that members of the Tribe are subject primarily to Tribal prosecution authority. Therefore, ODFW commits to working with the Siletz Tribe to seek to secure: (1) referral agreements with the District Attorneys in the counties within the geographic scope of this Agreement whereby alleged violations in their jurisdiction are referred to the Siletz Tribe for review and potential prosecution; and (2) to work with State and tribal enforcement authorities, including the Oregon State Police, to attempt to establish an enforcement coordination mechanism whereby tribal members allegedly violating State or tribal wildlife laws of the State or Siletz Tribe are summoned initially to the Siletz Tribal Court.

h. **Tribal Regulation of Harvest Consistent with Oregon Revised Statutes.** The Tribe agrees to adopt harvest regulations consistent with Oregon Revised Statutes, including those identified in Appendix B.

i. **Potential Future Commercial Harvest.** This Agreement does not authorize tribal commercial harvest of any wildlife resource. Any commercial harvest would be subject to a future negotiation and agreement in order to be included herein. If the Siletz Tribe presents ODFW with a proposal for harvesting wildlife resources primarily for commercial use, ODFW will consider the proposal for consistency with applicable State and federal law, the ability of the fish or wildlife resource to sustain the proposed commercial harvest consistent with its biological requirements and conservation necessity, and the factors of the Wildlife Policy in ORS 496.012. This Agreement may be amended in the future to incorporate such a proposal if it is accepted by ODFW.

j. **Coordination with Other Tribes.** In the event that ODFW enters into a comparable Hunting, Fishing, Trapping and Gathering Agreement with another Oregon based tribe regarding the taking of fish and wildlife or cooperative management of wildlife resources within all or part of the geographic scope of this Agreement or within the geographic area in an amendment to this Agreement, and such agreement includes obligations substantially identical to this subsection 5(j), the Siletz Tribe will meet annually with such other tribe to discuss issues of mutual concern within such geographic area, including planned harvest areas and limits and proposed cooperative management of natural resources.

6. **Cooperative Management of Natural Resources between ODFW and Siletz Tribe.**

a. **Definition of Cooperative Management of Natural Resources.** Cooperative Management of Natural Resources is defined as a collaborative effort established through a voluntary agreement in which two or more sovereigns mutually negotiate, define, and allocate amongst themselves cooperative management functions and responsibilities for a given territory, area, or set of natural resources. This cooperative management authority may be non-exclusive between the Parties and shall be dependent upon the resources committed by each Party.

b. **Annual meeting.** ODFW and Siletz Tribe natural resource managers shall meet on an annual basis to discuss fish and wildlife habitat management activities within the geographic area established under this Agreement for the upcoming calendar year or years.

c. **Coordination of fish and wildlife habitat management.** ODFW and the Siletz Tribe will coordinate the use of their respective authorities, expertise, and influence as regulatory or voluntary opportunities are presented to protect and restore fish and wildlife habitat within the geographic scope of this Agreement.

d. **Funding.** ODFW and the Siletz Tribe will coordinate applying for, seeking, and obtaining third party funding through grants, appropriations, or other means to enhance financial resources available to carry out

wildlife resource management activities. This provision does not prohibit each Party from also applying for such funding on its own.

e. **Data sharing.** ODFW and the Siletz Tribe will annually share data and information related to wildlife resource management, population health, and habitat conditions.

f. **Coordination of other management activities.** ODFW and the Siletz Tribe will coordinate on other management activities jointly determined to be necessary or appropriate to ensure the long-term sustainability of Oregon's fish and wildlife species within the geographic scope of this agreement. This coordination may include non-lethal deterrence and/or lethal removal of individuals of one species that are preying on or otherwise impacting another species.

7. **Dispute Resolution; Effect on Other Indian Tribes; Limitation on Effect of Agreement.**

a. **Principles.** The Parties intend to implement this Agreement in a cooperative and positive manner. The State and the Siletz Tribe seek to avoid judicial litigation about the nature and extent of the Siletz Tribe's treaty rights or other legal rights to hunt, fish, trap or gather wildlife resources within the geographic areas covered under this Agreement. Any disputes that arise under this Agreement regarding cooperative management, the Siletz Tribe's exercise of hunting, fishing, trapping or gathering of wildlife resources within the included geographic areas, the extent of the Siletz Tribe's subsistence or ceremonial harvest in general or in any particular year or area shall be resolved pursuant to this section.

b. **Rights of the Siletz Tribe or Other Federally-Recognized Tribes to Independently Raise Claims.** Nothing in this Agreement shall affect, impair or constrain the right of the Siletz Tribe or any other federally-recognized Indian Tribe not a party to this Agreement to raise claims in any geographic area to hunt, fish, trap or gather pursuant to treaty, statute or other legal authority in any appropriate forum that has jurisdiction, unconstrained completely by any terms of this Agreement. Any right or interest of the Siletz Tribe to initiate a separate proceeding or to

participate in any other pending legal proceeding must be independently established under applicable law and procedure.

c. **Mediation.** Where possible, disputes under this Agreement shall be resolved pursuant to mediation, with the mediator or mediators selected jointly by the Siletz Tribe and ODFW. If possible, the Siletz Tribe and ODFW will agree to a mediator or mediation firm ahead of time, so any mediation under this Agreement can be initiated in timely fashion. Any such agreement can be revisited by the Parties at any appropriate time, and a replacement mediator appointed. Any such mediation shall be governed by mediation standards followed by or acceptable to the State of Oregon. Any such mediation shall seek to reach conclusion within 180 days.

d. **Governing Law.** The laws of the State of Oregon (without giving effect to its conflicts of law principles), including this Agreement once adopted by administrative rule, govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

e. **Designation of Forum and Consent to Jurisdiction for Disputes under this Agreement.** Any party to this Agreement bringing a legal action or proceeding against any other party to this Agreement arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, to exhaustion of tribal remedies, and waives any claim that such forum is an inconvenient forum. Notwithstanding the foregoing, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This section applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section is also not a waiver by the State of Oregon of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

f. **Sovereign Immunity.** The Parties agree to a limited waiver of sovereign immunity only for purposes of this Agreement, and only for the benefit of the other Party. This limited waiver of sovereign immunity confers no rights or benefits on any third party. This waiver is limited to nonmonetary declaratory and nonmonetary injunctive relief and does not authorize any award for punitive or indirect or any other form of damages.

i. **State Waiver of Sovereign Immunity.** The Oregon legislature has waived the State's sovereign immunity to suit in State court as provided in ORS 30.320. No part of this Agreement is a waiver by the State of Oregon of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

ii. **Limited Tribal Waiver of Sovereign Immunity.** THIS WAIVER OF THE SOVEREIGN IMMUNITY OF THE SILETZ TRIBE FROM SUIT OR ACTION IS ADOPTED PURSUANT TO AND IN CONFORMANCE WITH THE CONFEDERATED TRIBES OF SILETZ INDIANS TRIBAL CODE LIMITED WAIVER OF SOVEREIGN IMMUNITY ORDINANCE, STC §2.250 et seq.) AND SHALL BE STRICTLY CONSTRUED AND LIMITED TO ITS SPECIFIC TERMS AND THE SPECIFIC WAIVER GRANTED. The Siletz Tribe hereby waives its immunity to suit in State court for the limited purpose of enforcing or interpreting this Agreement. The Siletz Tribe's limited waiver of sovereign immunity is limited to declaratory or injunctive relief to resolve disputes or ensure compliance with the Agreement. This waiver shall not include monetary damages, including but not limited to indirect, economic or punitive damages. The Siletz Tribe's limited waiver of sovereign immunity is limited to the Parties to this Agreement and does not confer or afford any rights or benefits to any other party or person. The Siletz Tribe's limited waiver of sovereign immunity does not apply to any other action, contract or agreement. A copy of the resolution approving the waiver of sovereign immunity in this Agreement by the Confederated Tribes of Siletz Indians Tribal Council shall be provided to ODFW within 30 days of execution of this Agreement by the Siletz Tribe.

8. **Notices.** Notices shall be sent to the following contact offices and persons under this Agreement:

For the State:
Curt Melcher, Director
Oregon Department
of Fish and Wildlife
4034 Fairview Industrial Dr. SE
Salem, OR 97304
Curt.Melcher@odfw.oregon.gov
503-947-6000

For the Tribe:
Mike Kennedy
Natural Resources Manager
Confederated Tribes
of Siletz Indians
P.O. Box 549
Siletz, OR 97380
MikeK@ctsi.nsn.us

With a Copy To:
Dorsay & Easton LLP
1737 NE Alberta St., Suite 208
Portland, OR 97212
craig@dorsayindianlaw.com

9. **Miscellaneous.**

a. The United States of America is not a party to this Agreement, and its interests or rights are not involved or affected by this Agreement.

b. The Siletz Tribe shall continue to have the right to receive a minimum of 4,000 pounds annually of surplus salmon carcasses from a source to be determined by ODFW. These fish shall be fit for human consumption and grade one fish shall be supplied if available. After ODFW has sorted the surplus salmon and has determined which fish are available for consumption, the Siletz Tribe may at its option participate in the final selection of these fish. An authorized agent of the Siletz Tribe shall be responsible for pickup of salmon carcasses at an appropriate location or locations designated by ODFW and reasonably convenient to the Siletz Tribe. The Siletz Tribe shall make all arrangements for the consumption of such fish, but such fish shall not be used for commercial purposes.

c. In addition to the Siletz Tribe's right to harvest wildlife resources as set forth in this Agreement, ODFW in coordination with OSP shall make

available to the Tribe, at the Tribe's option, a substantial portion of the deer, bear and elk carcasses received by ODFW in coordination with OSP within the geographic area under this Agreement. ODFW, in coordination with OSP, shall promptly advise the Tribe of available carcasses. The Tribe shall be responsible for pickup and any costs for processing.

10. **Effect on Other Agreements.** This Agreement shall acknowledge and incorporate any other Agreement entered into and effective between ODFW and the Siletz Tribe involving wildlife resources in existence on the effective date of this Agreement, except for the 'Agreement Among the State of Oregon, United States of America and the Confederated Tribes of Siletz Indians of Oregon to Permanently Define Tribal Hunting, Fishing, Trapping, and Gathering Rights of the Siletz Tribe and its Members', signed by the Parties and dated April 22, 1980. The Parties acknowledge that this Memorandum of Agreement does not in any way, replace, amend or otherwise modify the 'Agreement Among the State of Oregon, the United States of America and the Confederated Tribes of the Siletz Indians of Oregon to Permanently Define Tribal Hunting, Fishing, Trapping, and Gathering Rights of the Siletz Tribe and its Members' signed by the Parties and dated April 22, 1980.

    In addition, ODFW and the Siletz Tribe may voluntarily enter into subsequent agreements addressing subjects outside the scope of this Agreement. Nothing precludes negotiation of additional agreements between ODFW and the Siletz Tribe on subjects not covered by this Agreement. Nothing in this Agreement precludes ODFW from entering into hunting, fishing trapping and gathering agreements with other federally-recognized Indian Tribes located within Oregon's geographic borders.

11. **Effective Date**. This Agreement shall become effective when the Oregon Fish and Wildlife Commission and the Siletz Tribe have adopted the necessary rules and resolutions, and both parties have executed this Agreement.

12. **Amendments/Termination.**

a. This Agreement can be amended in writing by mutual consent of the Siletz Tribe and ODFW.

b. This Agreement can be terminated in writing by mutual consent the Siletz Tribe and ODFW.

c. Either party may terminate this Agreement for any reason. If the Parties do not agree to jointly terminate the Agreement, the party that is initiating the termination shall serve written notice to the other party's contact listed in paragraph 8 above. The State and the Tribe shall thereafter meet within 60-days in an effort to resolve the dispute. In the event the dispute is not resolved after meeting, either party may terminate this Agreement by sending written notice to the other party.

13. **Equity In Cooperative Management Agreements.** The Parties understand that ODFW may enter into cooperative management agreements with other federally-recognized tribes that address issues or matters similar to those addressed herein. In the event that any other such ODFW/Tribal cooperative management agreement includes terms that the Siletz Tribe believes are more favorable than those initially agreed to herein, the Parties agree to renegotiate the relevant terms.

14. **Available Funding and Continued Authority.** ODFW's obligation to perform its duties under this Agreement is conditioned upon the continuation of ODFW's authority to enter and maintain this Agreement, and upon ODFW receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODFW, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any law limiting the activities, liabilities, or monetary obligations of ODFW.

15. **Effect of Agreement.** No additional tribal legal or treaty entitlement is created, conveyed, established, expanded, adjudicated or implied, nor is any existing agreement, treaty or court decree modified by the adoption of this Agreement.

Signatures

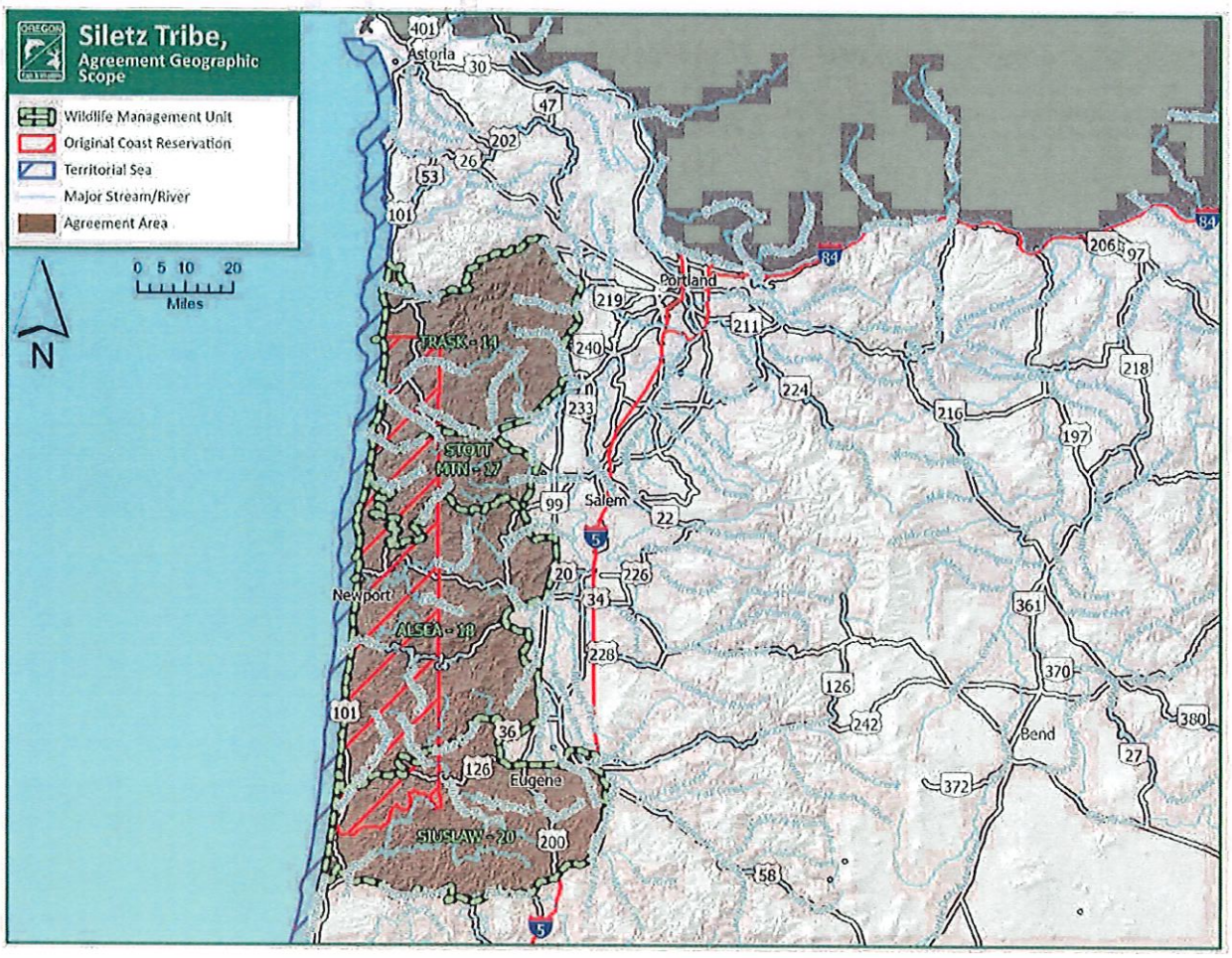
Delores Pigsley — 6/22/23

Delores Pigsley — Date
Chairman
The Confederated Tribes of Siletz Indians

Curt Melcher — 7/5/23

Curt Melcher — Date
Director
Oregon Department of Fish and Wildlife

Appendix A. Geographic Scope



Appendix B. Statutory Hunting and Trapping Restrictions

497.350 Hunting restriction; generally. (1) No person younger than 12 years of age shall hunt antelope, black bear, cougar, deer, elk, mountain goat, mountain sheep or moose.

(2) No person younger than 14 years of age shall hunt with a firearm or bow and arrow unless the person is accompanied by an adult, or is hunting on land owned by the parent or legal guardian of the person.

497.360 Hunter safety certificate; training program; youth hunter mentoring program; rules. (1) No person younger than 18 years of age shall hunt wildlife, except on the person's own land or land owned by the parent or legal guardian of the person, unless the person:

(a) Has in possession a certificate, issued by the State Fish and Wildlife Commission or by an agency of another state, stating that the person has satisfactorily completed a course prescribed or approved by the commission in the safe handling of lawful hunting weapons; or

(b) Is participating in a supervised hunt as provided in subsection (3) of this section.

(2) The commission, by rule, shall prescribe and administer a hunter safety training program to provide instruction in the safe handling of lawful hunting weapons. The program may also include instruction on wildlife and natural resource conservation, first aid and survival and such other subjects as the commission considers desirable to promote good outdoor conduct and respect for the rights and property of others. The commission may cooperate and enter into agreements with other public or private agencies and individuals in carrying out the provisions of this subsection. The Department of State Police and the Department of Education are directed to cooperate with the commission in carrying out the provisions of this section.

(3)(a) The commission, by rule, shall prescribe and administer a youth hunter mentoring program that allows a person who is between nine and 16 years of age to hunt while in the presence of a supervisory hunter who is 21 years of age or older and who holds the appropriate licenses, tags and permits issued pursuant to the wildlife laws. Only one lawful hunting weapon may be carried during a supervised hunt under this subsection. A person participating in a supervised hunt under this subsection may hunt wildlife under the same conditions applicable to the supervisory hunter's licenses, tags and permits.

(b) The commission, by rule, may prescribe any relevant safety and ethical standards for participation in a supervised hunt under this subsection.

498.056 Aiming rifle from moving motor vehicle prohibited. No person who is the occupant of a motor vehicle that is moving on a road open to the public shall aim a rifle or other firearm from the motor vehicle at a time when the hunting of wildlife is lawful.

498.102 Use of dogs to hunt or track game mammals or birds. (1) Any dog that is not wearing a collar with a license number thereon in compliance with ORS 609.100 that is found unlawfully hunting, running or tracking any game mammal or game bird may be killed at such time by any person authorized to enforce the wildlife laws.

(2) If a dog that is found unlawfully hunting, running or tracking any game mammal or game bird is wearing a collar with a license number thereon in compliance with ORS 609.100, the owner of the dog shall be notified by any person authorized to enforce the wildlife laws. If the

owner or reputed owner of the dog disclaims ownership of the dog, the dog may be killed at such time by a person authorized to enforce the wildlife laws.

(3) If the owner of a dog has been notified that the dog has been found unlawfully hunting, running or tracking game mammals or game birds and thereafter fails to prevent the dog from unlawfully hunting, running or tracking game mammals or game birds, such dog may be killed by any person authorized to enforce the wildlife laws.

(4) No person shall permit any dog the person owns to unlawfully hunt, run or track any game mammal or game bird.

498.126 Hunting or assisting others to hunt or locate game animals or birds by aircraft prohibited; exemption; rules. (1) A person may not:

(a) Hunt game mammals or game birds from or with the aid of an aircraft.

(b) Transmit from an aircraft to a person not in the aircraft information regarding the location of any game mammals or game birds.

(c) Otherwise use an aircraft to assist another person in hunting or locating game mammals or game birds for the purpose of hunting.

(2) A person may not hunt any game mammal within eight hours after having been transported by aircraft to or from any place other than a recognized airport that the Oregon Department of Aviation has licensed as a public use airport, registered as a personal use airport or specifically exempted from licensing or registration.

(3) Every pilot shall maintain a log book that shows the names and addresses of record of the persons transported, point of departure, point of destination, time and date of each flight that the pilot makes in an aircraft within this state to transport a person to or from any place to hunt. The log book is subject to inspection by any person authorized to enforce the wildlife laws.

(4)(a) Notwithstanding subsections (1) to (3) of this section, and except as provided in subsection (5) of this section, the State Department of Fish and Wildlife, or its agents, may conduct wildlife management activities necessary for scientific research or, in emergency situations, to protect human safety, wildlife species or property by:

(A) Hunting game mammals or game birds from or with the aid of an aircraft; or

(B) Transmitting from an aircraft information regarding the location of any game mammal or game bird.

(b) The State Fish and Wildlife Commission shall define by rule the terms "emergency situations" and "necessary" for purposes of implementation of this section.

(5) If the definition of "game mammal" in ORS 496.004 is modified to include wolves, then the department may conduct wolf management activities under this section only under a statewide wolf management plan adopted by the commission. [1973 c.723 §87; 1987 c.277 §1; 1989 c.448 §1; 1999 c.935 §30; 2003 c.566 §1; 2003 c.762 §1]

498.128 Use of drones for pursuit of wildlife prohibited; rules. (1) The State Fish and Wildlife Commission shall adopt rules prohibiting the use of drones for the following purposes related to the pursuit of wildlife:

(a) Angling;

(b) Hunting;

(c) Trapping;

(d) Aiding angling, hunting or trapping through the use of drones to harass, track, locate or scout wildlife; and

(e) Interfering in the acts of a person who is lawfully angling, hunting or trapping.

(2) Rules adopted to carry out the prohibitions provided for in this section may include exemptions for:

(a) Subject to ORS 837.360, the State Department of Fish and Wildlife and the department's agents and contractors for the use of drones in carrying out the duties of the department; or

(b) The use of drones in a manner otherwise prohibited under this section if the purpose of the use is to benefit wildlife management or habitat or for the protection of property.

(3) Nothing in this section is meant to limit the use of drones by a person who is lawfully engaging in activities authorized under the commercial fishing laws.

(4) As used in this section, "drone" means:

(a) An unmanned flying machine;

(b) An unmanned water-based vehicle; or

(c) Any other vehicle that is able to operate in the air, in or under the water or on land, either remotely or autonomously, and without a human occupant.

498.136 Hunting from motor-propelled vehicle restricted; rules. (1) Except as provided in subsection (2) of this section, a person may not hunt wildlife from a motor-propelled vehicle.

(2) The State Fish and Wildlife Commission, by rule, may authorize hunting from a motor-propelled vehicle by a person with a disability or for the purpose of alleviating damage by wildlife to other resources.

(3)(a) Nothing in the wildlife laws, or rules adopted pursuant thereto, is intended to prohibit the companion of a person with a disability who is lawfully hunting from a motor-propelled vehicle from killing an animal wounded by the person and applying to the animal the tag issued to the person for the taking of the animal, even if the companion has already validated any tag required for the taking of such an animal.

(b) For purposes of this subsection, "companion" means a person who does not have a disability.

498.142 Hunting with artificial light restricted; rules. (1) Except as provided in subsection (2) of this section, no person shall hunt wildlife with the aid of any artificial light.

(2) The State Fish and Wildlife Commission, by rule, may authorize hunting with the aid of an artificial light for the purpose of taking raccoon, opossum or bobcat or to alleviate damage by wildlife to other resources.

498.146 Shining artificial light on game mammal, predatory animal or livestock while in or near motor vehicle and while in possession of weapon restricted. (1) No person shall cast from a motor vehicle or from within 500 feet of a motor vehicle an artificial light upon any game mammal, predatory animal or livestock while there is in the possession or in the immediate physical presence of the person a weapon with which the game mammal, predatory animal or livestock could be killed.

(2) Subsection (1) of this section does not apply to a person who casts artificial light upon a game mammal, predatory animal or livestock:

(a) From the headlights of a motor vehicle that is being operated on a road in the usual manner, if that person makes no attempt to kill the game mammal or livestock; or

(b) When the weapon that person has in the possession or immediate physical presence of the person is disassembled or stored, or in the trunk or storage compartment of a motor vehicle; or

(c) On land owned or lawfully occupied by that person; or

(d) On publicly owned land when that person has an agreement with the public body to use that property.

(3) As used in this section, "predatory animal" has the meaning for that term provided in ORS 610.002.

498.158 Hunting or trapping wildlife in certain governmental districts restricted. (1) Except as provided in ORS 448.305 and in subsection (2) of this section, no person shall hunt or trap any wildlife within the boundaries of any city, public park, cemetery or on any school lands.

(2) No hunting or trapping shall be allowed on any lands within the boundaries of any city, public park or on any school lands unless:

(a) The governing body or other agency that administers the affairs of the city, public park or school, after notice and hearing, authorizes such hunting or trapping by ordinance or resolution; and

(b) The State Fish and Wildlife Commission, after notice and hearing, determines that such hunting or trapping would not adversely affect public safety or unreasonably interfere with other authorized uses of such lands.

498.164 Use of dogs or bait to hunt black bears or cougars; prohibitions; exemptions; penalties. (1) Except as provided in subsections (2) and (3) of this section, a person may not use bait to attract or take black bears or use one or more dogs to hunt or pursue black bears or cougars.

(2) Nothing in subsection (1) of this section prohibits the use of bait or one or more dogs by employees or agents of county, state or federal agencies while acting in their official capacities.

(3) Nothing in subsection (1) of this section prohibits the use of bait or dogs by persons for the taking of black bears or cougars in accordance with the provisions of ORS 498.012 relating to taking wildlife that is causing damage.

(4) Any person who violates subsection (1) of this section commits a Class A misdemeanor and, upon conviction, shall in addition to appropriate criminal penalties have the person's privilege to apply for any hunting license suspended for a period of five years for a first offense and permanently suspended for any subsequent offense.

(5) For the purposes of this section, "bait" means any material placed for the purpose of attracting or attempting to attract bears.

498.172 Trap check requirements. (1) A person holding a license issued under ORS 497.142 may not set a trap for fur-bearing mammals without checking the trap at least once during each 48-hour period.

(2) A person may not set a trap for a predatory animal, as defined in ORS 610.002, without checking the trap on a regular basis.

498.208 Use of electricity or foreign substances to take game fish prohibited; rules. (1) Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall:

(a) Use in any body of water any electric current that may attract, frighten, retard, stun, kill or obstruct the movement of any game fish.

(b) Place in any body of water any foreign substance such as blood or fish offal or any gas, chemical, drug or powder that may attract, frighten, retard, stun, kill or obstruct the movement of any game fish.

(c) Use in any body of water any explosive device for the purpose of taking game fish.

(2) No person shall possess any game fish that the person knows or has reason to know was taken in violation of subsection (1) of this section.

498.216 Angling from fishways restricted; rules. Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall trespass upon or angle from any fishway or angle within an area of a body of water bounded by a line extending across the body of water 200 feet above the upper end of a fishway and a line across the body of water 200 feet below the lower end of a fishway.