Written Testimony of Chairman Delores Pigsley

Chairman of the Confederated Tribes of Siletz Indians of Oregon

In Support of S.908

A Bill to Define the Original Siletz Reservation as On-Reservation for Purposes

Of Processing Tribal Fee-to-Trust Applications Under 25 U.S.C. § 465

Need for this Legislation:

The Confederated Tribes of Siletz Indians of Oregon ("Siletz Tribe") is seeking federal legislation to define the boundaries of the Tribe's original 1855 reservation, established by Executive Order of Franklin Pierce on November 9, 1855, as "on-reservation" in order to clarify the Secretary of Interior's authority to take land into trust for the Siletz Tribe under the Interior Department's fee-to-trust regulations at 25 C.F.R. Part 151. Enactment of this legislation will not create a reservation for the Siletz Tribe, and by itself will not affect the jurisdiction or authority of state or local governments. The purpose of the legislation is to allow for more timely processing of the Siletz Tribe's fee-to-trust applications by allowing those applications to be approved at the Bureau of Indian Affairs' regional level, and to provide an historical reference for the Bureau to process those applications under the Department's on-reservation rather than off-reservation criteria. No land acquired in trust by the Siletz Tribe under the proposed legislation may be used for gaming purposes

The Siletz Tribe's modern situation is a product of a number of federal policies, laws and history that, working together, adversely affected the Tribe over the last 175 years. Most Indian tribes have reservations with well-defined exterior reservation boundaries where the Tribe owns all or a large portion of the land within that boundary. The definition of "Indian country" under federal law, which defines the outer extent of tribal territorial authority, includes all land within the boundaries of an Indian Reservation. *See* 18 U.S.C. § 1151. The Siletz Tribe's original 1.1 million acre reservation was reduced over time by Executive Order, statute, the Allotment Act, and was finally, completely extinguished by the Tribe's termination in 1954.

When the Siletz Tribe was restored to federally recognized status in 1977 by federal statute, 25 U.S.C. § 711 et seq., no lands were restored to the Tribe although the Act called for the future establishment of a reservation. 25 U.S.C. §711e. Congress created the new Siletz Reservation in 1980 and added to that reservation in 1994. Pub.L.No. 96-340, Sept. 4, 1980, 94 Stat. 1072; Pub.L.No. 103-435, Nov. 2, 1994, 108 Stat. 4566. The Siletz Tribe's reservation consists of approximately 50 separate, scattered parcels of reservation land. Each parcel has its own "exterior" boundary. Most of the parcels are separate from each other, and there is no overall exterior reservation boundary that encompasses the individual parcels. A map showing

the Siletz Tribe's original 1855 reservation and the Tribe's current reservation and other trust lands is attached as Exhibit A. Because of this history, any additional land the Siletz Tribe seeks to have placed in trust status under federal law is considered to be "off-reservation" because it necessarily is beyond the boundaries of the Siletz Tribe's current reservation.

Authority must be found in federal law or in treaties for the Secretary of Interior to take land into trust for Indian tribes. The authority for most fee-to-trust transfers appears in Section 5 of the 1934 Indian Reorganization Act ("IRA"), codified at 25 U.S.C. § 465. This law was made expressly applicable to the Siletz Tribe in its Restoration Act, at 25 U.S.C. § 711a(a). This provision was enacted to reverse the devastating loss of lands suffered by Indian tribes between 1887 and 1934 (over 90 million acres) and to restore a minimally adequate land base for those tribes.

There are no geographic limitations on the Secretary of Interior's authority to take land into trust for an Indian tribe in Section 465. No regulations implementing this provision of the 1934 IRA were enacted until 1980. *See* 45 Federal Register 62036 (Sept. 18, 1980). The regulations currently appear at 25 C.F.R. Part 151. No distinction between on and off reservation fee-to-trust requests by Tribes was included in the original regulations. It was not until passage of the Indian Gaming Regulatory Act in 1988 and the subsequent requests from some tribes to place off-reservation land in trust for gaming purposes that changes to the regulations were considered. The Department began enforcing an internal on-reservation/off-reservation fee-to-trust policy in 1991, and in 1995 added this distinction into the fee-to-trust regulations. *See* 60 Federal Register 32879 (June 23, 1995). No consideration or discussion of the Siletz Tribe's factual situation factored into the regulatory changes.

The current fee-to-trust regulations distinguish between on-reservation trust acquisitions (25 C.F.R. § 151.10) and off-reservation trust acquisitions (25 C.F.R. § 151.11). The requirements for a Tribe obtaining land in trust are more restrictive, more costly and time-consuming, and require additional justification. Because of the Siletz Tribe's unique history, all fee-to-trust requests by the Tribe are reviewed under the off-reservation process, even close to the Tribe's current reservation lands and even within the boundaries of the Tribe's historical reservation.

S. 908 will place the Siletz Tribe on the same legal footing as all other federally-recognized Indian tribes who did not suffer through the tragedy of termination and the loss of their reservations. It will treat the Siletz Tribe's fee-to-trust requests within its historical reservation the same as fee-to-trust requests from other tribes within their historical reservations. It will facilitate the restoration of a tribal land base for the Siletz Tribe so the Tribe can meet the needs of its members. It will reduce cost, time and bureaucratic obstacles to the Tribe obtaining approval of its land into trust requests. The legislation is consistent with the definition of on-reservation as set out in the current fee-to-trust regulations at 25 C.F.R. §151.2(f).

The Siletz Tribe has an ongoing critical need to acquire additional lands in trust to meet the needs of the Tribe and its members. The Tribe received a modest approximately 3630 acres in trust as a Reservation in 1980, comprised of 37 scattered parcels. This land was primarily former BLM timber lands, and was calculated at the time to allow the Tribe to generate revenue to provide limited services to its members and to support tribal government. The revenue generated from these parcels has been insufficient to meet growing tribal needs. The Reservation Act also returned a tribal cemetery and Pow-Wow grounds to the Tribe. Since 1980 the Tribe has obtained additional 804 acres of land in trust to meet some of the Tribe's needs for housing, health and social services, natural resources, and economic development including a gaming operation. Currently the Tribe has a total of 63 separate trust properties, for a total acreage of 4434.01 acres. Tribal needs have not been satisfied, however, and the Tribe has a continuing need to acquire additional lands in trust. This is a long-term objective of the Tribe because of the Tribe's limited financial resources, which only allow it to purchase land a little at a time.

Historical and Legal Background:

Numerous bands and tribes of Indians resided aboriginally in Western Oregon, from the crest of the Cascade Mountains to the Pacific Ocean. Early federal Indian policy was to enter into treaties with Indian tribes to obtain the cession of their aboriginal lands to clear title for non-Indian settlement. A "reservation policy" evolved to place the Indians who entered into these treaties on small remnants of their aboriginal lands, but to open most of those lands for future development and settlement. In most cases each tribe that entered into a treaty was left with its own reservation somewhere within its aboriginal territory. Entering the 1850s, this federal policy evolved into a new reservation policy, particularly along the west coast, to place as many tribes as possible on one reservation. This freed up additional land for settlement and simplified administration of the remaining Indians. *See* Charles F. Wilkinson, The People Are Dancing Again: A History of the Siletz Tribe (U. of Washington Press 2010).

Treaties negotiated with western Oregon Indian tribes in the early 1850s by Anson Dart were rejected by the Senate because they did not implement this new policy and instead provided for individual reservations within a tribe's historical territory. The subsequent Indian Superintendent in Oregon in the1850s, Joel Palmer, was given the task of negotiating treaties with all of the tribes in western Oregon and finding a permanent reservation where they could all be settled. Superintendent Palmer first considered moving all the western Oregon tribes east of the Cascade Mountains to the Klamath Reservation, but none of the western Oregon tribes wanted to go there. In early 1855 he located what became the Siletz or Coast Reservation and communicated its suitability as the permanent reservation for all the western Oregon tribes to his superiors in Washington, D.C. Because of the long time lag in communication between the east and west Coasts in the 1850s, Palmer provisionally set aside the Coast Reservation on his own authority on April 17, 1855. This action was subsequently ratified by the Department of Interior.

There was no one method or procedure by which the tribes and bands that are part of the Confederated Tribes of Siletz Indians entered into treaties or came to the Siletz Reservation. A map showing the ancestral lands and tribes that make up the Siletz Tribe is attached as Exhibit B. The Siletz Tribe has a legal relationship to seven ratified treaties (Treaty w/ the Rogue River, Sept. 10, 1853, 10 Stat. 1018; Treaty w/ the Umpqua-Cow Creek Band, Sept. 19, 1853, 10 Stat. 1027; Treaty w/ the Rogue River, Nov. 15, 1854, 10 Stat. 1119; Treaty w/ the Chasta, Nov. 18, 1854, 10 Stat. 1122; Treaty w/ the Umpqua and Kalapuya, Nov. 29, 1854, 10 Stat. 1125; Treaty w/ the Molala, Dec. 21, 1855, 12 Stat. 981; Treaty w/ the Kalapuya, Jan. 22, 1855, 10 Stat. 1143), and one unratified treaty (Treaty with the Tilamooks and other confederate tribes and bands residing along the coast, Aug. 11,1855 ("Coast Treaty")). To complicate things further, there are also several additional unratified treaties negotiated in 1851 with the northern Oregon coastal tribes and bands, known as the Anson Dart treaties. Indians from all of these tribes and bands ended up on the Siletz/Coast Reservation. In some of these treaties, such as the 1854 Rogue River Treaty and the unratified Coast Treaty, the signatory tribes were "confederated" by the federal government into one tribe. The Confederated Tribe of Siletz Indians is the federally-recognized Tribe that is the legal and political successor to these original tribes. *See United States v. Oregon*, 29 F.3d 481, 485-86 (9th Cir.1994)(Yakama Nation comprised of the Indians who moved to the reservation under the Yakama Treaty; Nez Perce Tribe comprised of Nez Perce Bands who signed Nez Perce Treaty and moved to diminished Nez Perce Reservation).

Movement of the tribes, bands and Indians to the Siletz Reservation was also not clean or uniform. Some tribes moved in several waves to the Siletz Reservation, at different times. In some cases only parts of the tribe, smaller groups or individual families ended up on the Reservation. In other cases individuals or small groups who were moved to the Siletz Reservation left the Reservation and returned to their aboriginal areas; other individuals hid and were never moved. Some of the individuals who left the Siletz Reservation and returned to their aboriginal areas were rounded up and returned to the Siletz Reservation. For example, member of the Coos and Lower Umpqua Tribes who left the Siletz Reservation and returned to their aboriginal area were forcibly returned to the Reservation.

In all of these cases and under all of these treaties, both ratified and unratified, the tribes and bands in question were moved to the Siletz Reservation and became part of the Confederated Tribes of Siletz Indians. This early history of the Siletz Tribe and Siletz Reservation is set out in various federal court decisions, including *Rogue River Tribe v. United States*, 64 F.Supp. 339, 341 (Ct.Cl. 1946); *Alcea Band of Tillamooks v. United States*, 59 F.Supp. 934, 942 (Ct.Cl. 1945); *Coos, Lower Umpqua, and Siuslaw Indian Tribes v. United States*, 87 Ct. Cl. 143 (1938); and *Tillamook Tribe of Indians v. United States*, 4 Ind. Cl. Comm'n 31-65 (1955). Copies of these decisions are attached as Exhibit C. The Siletz Tribe also submits some of the Interior Department and Oregon Indian Agency correspondence from this period (1855-75), documenting the settlement of various tribes and bands on the Siletz Reservation pursuant to these treaties, as Exhibit D. The settlement of various tribes on the Siletz Reservation is also documented in various academic publications such as a report prepared by Historian Dr. Stephen Dow Beckham. *See* "The Hatch Tract: A Traditional Siuslaw Village Within the Siletz Reservation, 1855-75," prepared by Dr. Stephen Dow Beckham for the Confederated Tribes of Coos, Lower Umpqua and Siuslaw, Dec. 4, 2000, pp.12-14 ("On July 20, 1862, Linus Brooks, Sub-Agent, confirmed that the removal of the Coos, Lower Umpqua, and Siuslaw Indians onto

the Siletz Reservation was complete," and "On July 21, 1864, Sub-Agent George W. Collins confirmed the presence of the tribes on the Siletz Reservation".).

The Confederated Tribes of Siletz Indians was recognized as the governing body and tribe representing all of the tribes and bands settled on the Siletz Reservation as early as 1859. *See*, *e.g.,* Indian Traders License issued by the Siletz Indian Agent on June 16, 1859, to trade with "The Confederated Tribes of Indians . . . within the boundary of the Siletz Indian agency district Coast Reservation." (Copy attached as Exhibit E); *Tillamook Tribe of Indians*, *supra*, 4 Ind. Cl. Comm'n at 31 ("Confederated Tribes of Siletz Indians, . . . a duly confederated and organized group of Indians having a tribal organization and recognized by the Secretary of the Interior of the United States" is the only entity with standing to prosecute claims against the United States involving the Siletz Reservation). It has consistently been recognized as the tribe representing the original Siletz or Coast Reservation since that time. As such it is the legal and political successor to all of the tribes and bands of Indians settled on or represented on the Siletz Reservation.

This legal principle was established and has been repeatedly confirmed in the *U.S. v. Washington* Puget Sound off-reservation treaty fishing rights litigation. *See*, *e.g.*, *See United States v. Washington*, 593 F.3d 790, 800 at n.12 (9th Cir. 2010)("*Samish*"), citing to *U.S. v. Washington*, 384 F.Supp. 312, 360 (W.D.Wash. 1974)(Lummi) and to *U.S. v. Washington*, 459 F.Supp. 1020, 1039 (W.D. Wash. 1978)(Swinomish)(Lummi and Swinomish successors in interest to tribes and bands settled on their reservations under Treaty of Point Elliott; both tribes successors in interest to the Samish Indian Tribe[1]; modern day Samish Tribe also a successor in interest to the historical Samish Tribe for non-off-reservation treaty fishing rights purposes); *Evans v. Salazar*, 604 F.3d 1120, 1122 n. 3 (9th Cir. 2010), citing *U.S. v. Washington*, 459 F.Supp. 1020, 1039 (W.D.Wash. 1978)(Tulalip Tribes recognized governing body and successor to tribes and bands settled on the Tulalip Reservation under the Treaty of Point Elliott); *U.S. v. Washington*, 520 F.2d 676, 692 (9th Cir. 1975)(Muckleshoot Tribe, which did not exist at the time of the Treaty of Point Elliott and Treaty of Medicine Creek, recognized as a tribe by the United States and is a successor in interest to its constituent tribes which were settled on the Muckleshoot Reservation under the two treaties).

Two other legal principles, confirmed by Ninth Circuit Court of Appeals decisions, also confirm the Confederated Tribes of Siletz Indians as the only federally-recognized Indian tribe representing the tribes and bands who were settled on the Siletz Reservation, and as the only Indian tribe with a legal interest in and title to the original 1855 Siletz or Coast Reservation. The first legal principle involves groups or bands of Indians who either refused or did not move to the reservation designated for them under a treaty or other federal action, or who subsequently left that reservation or refused to move to a reconfigured reservation. In *U.S. v. Oregon*, 29 F.3d 481, 484-85 (9th Cir. 1994), the Ninth Circuit rejected the claim of the Colville Confederated

[1] Like the situation of Lummi and Swinomish, whose reservations were set aside for all the Indians who signed the Point Elliott Treaty, both the Siletz and Grand Ronde Reservations were expressly set aside for settlement of the Willamette Valley Tribes, and members of those tribes settled on both the Siletz and Grand Ronde Reservations. Under the Ninth Circuit's decisions in *U.S. v. Washington*, both the Siletz and Grand Ronde Tribes are successors to the historical Willamette Valley Tribes and the three ratified treaties signed by those tribes.

Tribes to have treaty and successorship rights under the Yakama and Nez Perce Treaties of 1855 because bands of the tribes that had signed those treaties had refused to move to the reservations established under those treaties, or had subsequently left those reservations, and instead had ended up settling on the Colville Reservation. The Ninth Circuit concluded that those bands, by refusing to move to the treaty reservations or subsequently leaving those reservations, had abandoned their right to treaty status or successorship of the original tribes.

This legal principle applies to the claims of the modern day Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (comprised of individual Indians from those tribes who either refused to move to the Siletz Reservation or who subsequently left the Siletz Reservation and moved back to the Coos Bay area) to have legal claim to the original Siletz Reservation. It also applies to the claim of the Confederated Tribes of the Grand Ronde Community of Oregon to be a successor to the Rogue River Tribe (a band or small group of Rogue River Indians refused in 1857 to move to the Siletz Reservation, designated as the permanent reservation for that Tribe, and stayed instead on the Grand Ronde Reservation), and to have a claim through that tribe to the Siletz Reservation.

The second additional legal principle applies to the factual situation where one tribe is not settled on a reservation under a treaty, but individual members of an "unaffiliated" tribe end up on the reservation of another tribe, either by obtaining allotments on that reservation or for other reasons. This was the situation in *United States v. Suquamish Indian Tribe*, 901 F.2d 772, 777 (9th Cir. 1990), where the Ninth Circuit rejected the Suquamish Tribe's claim to be the successor to the Duwamish Tribe on the grounds that "individual Duwamish had moved to and settled at" the Suquamish Reservation, obtaining allotments there. The court found that no group or band of Duwamish moved there. *Id.*[2] This test was clarified in *United States v. Oregon*, *supra*, where the Ninth Circuit concluded that for one tribe to be able to claim successorship to another tribe, the first tribe would have to show "a cohesive communal decision by the Duwamish to unite with the Suqamish," otherwise the Suquamish "could not successfully claim that it was a 'political successor' to the treaty time Duwamish Tribe." 29 F.3d at 484. Movement and settlement of individual Indians does not result in successorship, under settled principles of law.

This legal principle applies to the claims of the Grand Ronde Tribe that it has an interest in the original Siletz Reservation through its asserted successorship to the Nehalum Tribe, for example. Case law to which the Grand Ronde Tribe was a party and is therefore bound concluded that the Siletz Tribe is the successor the Nehalum Tribe: "Plaintiffs Chinook, Clatsop and the Ne-ha-lum tribes were placed on the Coast Reservation." *Alcea Band of Tillamooks*, *supra*, 59 F.Supp. at 954. Grand Ronde claims successorship to the Nehalum Tribe because some individual Nehalum Indians later moved to and settled on the Grand Ronde Reservation. Under established federal precedent, the fact that some individual Nehalum Indians moved to the Grand Ronde Reservation did not make the Grand Ronde Tribe a successor to the Nehalum Tribe.

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[2] The Court contrasted this factual situation with that of the Muckleshoot and Tulalip Tribes, who were not tribes at the time of the treaty but became tribes comprised of small neighboring bands of Indians who signed the treaties and moved as bands to the designated reservation. 901 F.2d at 776. Those bands who resided together on the same reservation then "became known as the Tulalip and Muckleshoot Indians." *Id.*

The Siletz Reservation has been referred to by various names in its history, but has been known most often as the Siletz Reservation since 1857. The Reservation was originally referred to as the Coast Reservation before it was reserved by Oregon Indian Agent Joel Palmer because it was located on the Oregon Coast and because it was set aside for the "Coast, Umpqua, and Willamette Tribes of Indians in Oregon Territory." After official establishment by Executive Order on November 9, 1855, it was referred to variously as the Siletz, Siletz or Coast, or Siletz/Coast Reservation. Starting in 1857, use of the term Siletz Reservation became most common, see, *e.g.*, Letter dated July 20, 1857 (Annual Report of Grand Ronde Indian Agency), attached as Exhibit D, page *("Early in the month of May the greater portion of the Rogue River and all of the Shasta Indians were removed, with their own consent, to the Siletz coast reservation . . . In consequence of the removal of the majority of these tribes to the Siletz reservation" , and Congress formally referred to the Reservation as the Siletz Reservation in legislation enacted in 1868 and 1875. Act of July 27, 1868, 15 Stat. 198, 219("For Indians upon the Siletz reservation . . . to compensate them for losses sustained by reason of executive proclamation taking from them that portion of their reservation called Yaquina Bay"); Act of March 3, 1875, 18 Stat. 420, 446("Secretary of the Interior . . . is authorized to remove all bands of Indians now located upon the Alsea and Siletz Reservation, set apart for them by Executive order dated November ninth, eighteen hundred and fifty-five"). Copies of these statutes are attached as Exhibit F.

The Siletz Reservation was established by Executive Order on November 9, 1855 as a permanent homeland for all the Tribes and Bands of Indians in western Oregon, who were to confederate upon it and make the remaining ceded land available for settlement. The original Siletz Reservation stretched for over 100 miles along the central Oregon Coast, from the ocean to the western boundary of the 8th Range, Willamette Meridian, around 1.1 million acres. A copy of the original map of this reservation made sometime between 1857 and 1865 is attached as Exhibit G. Treaty tribes such as the Rogue Rivers, Shastas and Umpquas were moved to the Siletz Reservation by May 1857 in fulfillment of the terms of their treaties to settle them on a permanent treaty reservation. The Siletz Reservation under well-established case law became a treaty reservation at that time. The Siletz Reservation was then reduced over the coming years by various federal actions – Executive Order in 1865, federal statute in 1875, and an Agreement and legislation implementing allotment and surplusing of the remaining reservation in 1892. A map of the original Siletz Reservation showing the various reductions of the Siletz Reservation is attached as Exhibit H. A map showing the original Siletz Reservation in context to the State of Oregon and to modern Oregon cities is attached as Exhibit I.

Various Court of Claims and Indian Claims Commission cases have addressed whether the Tribes that were located on the Siletz Reservation were entitled to compensation for the taking of their aboriginal reservation, or for the various diminishments of the Siletz Reservation. These cases – *Rogue River*, *Alcea Band of Tillmooks*, *Coos, Lower Umpqua and Siuslaw Indian Tribes*, and *Tillamook Tribe of Indians*, are cited above. These cases document the connection of the Siletz Tribe to the original Siletz Reservation. As such, they also show that the original Siletz Reservation meets the definition of on-reservation as set out in the fee-to-trust regulations at 25

C.F.R. § 151.2(f): "[W]here there has been a final judicial determination that a reservation has been disestablished or diminished, *Indian reservation* means that area of land constituting the former reservation of the tribe." *See Citizen Band Potawatomi Indians v.* Collier, 17 F.3d 1325 (10th Cir. 1998)(processing fee-to-trust request within former reservation of Potawatomi Tribe). Enacting S.908 will allow the Siletz Tribe to request fee-to-trust transfers on the same basis as other Indian tribes within their original reservations.

Response to Specific Issues:

Some questions have been raised before this hearing about specific aspects of the proposed legislation. I want to address some of those issues here, and can respond to other issues during my oral testimony.

1. Does this bill make the original Siletz Reservation into a reservation for the Siletz Tribe, or create tribal jurisdiction or authority over the original Siletz Reservation area?

Answer: No. All S.908 does is to designate a geographic area within which the Siletz Tribe's fee-to-trust requests will be processed under the BIA's on-reservation rather than off-reservation fee-to-trust criteria. The jurisdictional status of individual fee-to-trust parcels changes once those parcels go into trust status, but that happens whether or not this bill passes, and whether or not the on-reservation or off-reservation criteria are used. This issue was addressed by the federal courts in *Yankton Sioux Tribe v. Podhradsky*, 606 F.3d 994, 1013 (8th Cir. 2010)("While it is true that the original 1858 [reservation] boundaries are no longer markers dividing jurisdiction between the Tribe and the state, that does not mean they have lost their historical relevance for the Secretary's discretionary acts [of taking land into trust pursuant to 25 U.S.C. §465]." Under S.908, the original 1855 Siletz Reservation will become an historical reference point for the BIA in deciding whether to process a Siletz fee-to-trust application as on-reservation or off-reservation under the fee-to-trust regulations at 25 C.F.R. Part 151. The bill does nothing more.

2. Does the Siletz Restoration Act limit the Siletz Tribe to taking land into trust only within Lincoln County?

Answer: No. The original Siletz Reservation extends into six current Oregon counties, although the heart of the original Siletz Reservation became Lincoln County. The counties within the original Siletz Reservation is located are shown on the map attached as Exhibit A. As you can see, two of the counties have barely any land involved. Some parties have asserted that federal law – the Siletz Restoration Act – limits the Siletz Tribe to taking land into trust only within Lincoln County. The section of the Restoration Act in question, at 25 U.S.C. § 711e(d), is addressed to the reservation plan called for by the Restoration Act. It limits any land designated under the reservation plan to Lincoln County.

The question of whether this provision of the Siletz Restoration Act, 25 USC § 711e(d), limited the BIA from taking land in trust for the Siletz Tribe only to Lincoln County was addressed immediately after passage of the Siletz Restoration Act by the Office of the Solicitor, in 1978 and 1979. Those opinions concluded that the statutory restriction at § 711e(d) applied only to the original Siletz Reservation Plan, and did not limit the authority of the Secretary from taking land in trust for the Siletz Tribe elsewhere?. This conclusion was reached in part because the Siletz Restoration Act expressly makes 25 U.S.C. § 465 - Section 5 of the IRA - applicable to the Siletz Tribe, without restriction. This is not true of any other restored tribe in Oregon. Copies of the two Solicitor Opinions reaching this conclusion are attached as Exhibit J.

The Siletz Tribe has acquired land in trust outside of Lincoln County since Restoration. For example, the Tribe has a 20 acre parcel of land in trust in Salem, Marion County, Oregon, within the Tribe's historical territory.

3. Does the County approval provision of S. 908 give the counties within which the original Siletz Reservation is located veto power over Siletz fee-to-trust requests?

Answer: No. The Siletz Tribe was aware going into this proposed legislation that there have been repeated attempts by states and counties to restrict or eliminate taking land into trust for tribes under 25 U.S.C. § 465, including proposals to give counties and states veto authority over tribal trust requests. S. 908 does not give local Oregon counties veto power over the Siletz Tribe's request to take any land in trust. All the relevant provision of the bill does is to give a County the option to have a particular Siletz fee-to-trust request treated as on-reservation or off-reservation. If a County objects to having a particular Siletz fee-to-trust request treated as on-reservation, it is processed under the off-reservation criteria of the existing fee-to-trust regulations, as though S. 908 had not passed. The Siletz Tribe still has the right to have land taken into trust even if a County objects; it just has to satisfy the more stringent off-reservation criteria.

The Siletz Tribe did not include this County language on its own initiative. Lincoln County, the County with which the Siletz Tribe has the closest relationship, requested this language. Because the language does not give the County any veto power over actually taking land into trust and because the Siletz Tribe is comfortable with its long-standing positive relationship with Lincoln County and its ability to satisfy any County concerns that might arise in the future, the Siletz Tribe agreed to include the County approval language in its draft legislation. At the same time, the Tribe recognized that any county approval language of any kind might raise concerns from the Department or from Congress, and informed Lincoln County that such concerns might necessitate changes to the proposed legislation. The Siletz Tribe's continued support for S. 908 is not dependent upon survival of the county language in its current form.

4. Will S. 908 allow the Siletz Tribe to acquire land in trust and use that land for gaming under the Indian Gaming Regulatory Act?

Answer: No. There is an express prohibition in S. 908 on using land acquired in trust under the bill for gaming. The Siletz Tribe already has a successful gaming operation at Chinook Winds Casino Resort on its current reservation. The Tribe does not need to acquire land in trust for a gaming operation within its original reservation boundaries.

This concludes the written testimony of the Confederated Tribes of Siletz Indians in support of S. 908. I would be glad to respond to any questions from the Committee.