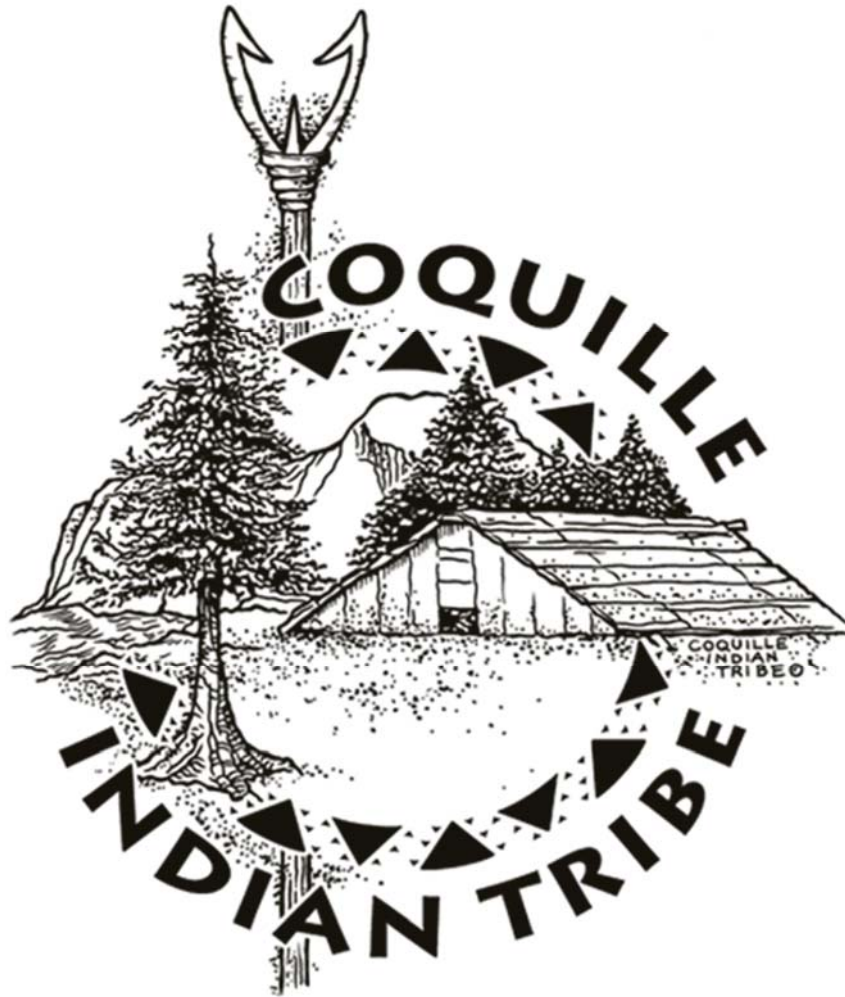


# Background Reading: Coquille Indian Tribe Forest Management



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## **Tribal History and the Coquille Forest**

Since time immemorial and prior to sustained contact with Euro-American explorers and settlers in southern Oregon in the early 1850s, the ancestors of the modern Coquille (pronounced "Ko-Kwell") Indian Tribe lived, occupied and used hundreds of thousands of acres of land along the Oregon coast and interior. Archaeological studies date human occupation within the Coquille River basin as early as 11,000 years ago. Today the evidence of that occupation is marked by many artifacts, including the presence of house pits, lithic scatters, middens, and fish weirs. The Coquille Indian Tribe (CIT) is comprised of bands that historically spoke Athabaskan, Miluk, and later, Chinuk Wawa. Since time immemorial, they flourished among the forests, rivers, meadows, and beaches of a homeland encompassing well over a million acres in the southwestern region of Oregon. Their ancestral homeland area and the surrounding sphere of influence included the coastal range run off, down through intricate mountains, and valleys of southern Oregon, down to the marshes and beaches that provided a never-ending variety of life sustaining resources to the Coquille people.

In 1851, and again in 1855, Indian agents representing the U.S. government negotiated treaties with the chiefs and headmen of the Coquille people, which called for their removal to the Coast Reservation (which encompassed nearly 1.1 million acres), approximately 100 miles to the north near present-day Lincoln City, Oregon. The treaties promised payment, provisions, and new homelands in exchange for the lands being ceded, however the U.S. Senate did not ratify either treaty. This failure to ratify the treaties effectively denied those headmen and their families, and the many succeeding generations of Coquille people, a permanent homeland. Because Congress had not ratified the treaty of 1855, the Coquille (along with many other southern Oregon Indians) had no reservation land base or other compelling reason to justify an ongoing or permanent Bureau of Indian Affairs presence in the Coos/Coquille region. As a result, official Indian business was conducted by a series of obscure absentee Indian Agents, whose offices and duties shifted with the various federal policies of the times. Although these agents demanded written correspondence from the Coquille Indians presumably under their care, they rarely gave notice when official Indian business affected the Coquille, and even more rarely ever left a forwarding address.

In 1954, when Congress passed the Western Oregon Indian Termination Act, the Coquille Indians lost all official recognition as a Tribe and as Indians. By the time of termination, most Coquille people had lost any meaningful federal or public recognition of their tribal status. Allotted lands had been lost to "back taxes" and unscrupulous land dealings. Federal Indian education and health services had become virtually non-existent in the region. All Coquille claims against the federal government pertaining to treaties or subsequent government promises had been extinguished. Having endured nearly 100 years of official U.S. policies aimed at annihilation, segregation, and acculturation, 271 people were identified on the "judgment roles" as being Coquille at the time of termination.

Ironically, it was also an act of Congress that restored official Tribal status to the Coquille 35 years later, in 1989 (P.L. 101-402). After more than a decade of various lobbying efforts, a small and dedicated group of Coquille descendants finally persuaded Congress to grant federal recognition to the Coquille Tribe and, with it, eligibility for federal Indian programs and services.

The Restoration Act established a requirement and provided authority for the Tribe to develop a plan for economic self-sufficiency. The reacquiring of forest lands for timber

production and cultural restoration within the Tribe's ancestral homelands was the cornerstone of the Self-Sufficiency Plan developed by the Tribe and approved by the Department of the Interior (DOI). A number of forest land restoration options were considered by Congress and the Secretary of the Interior as a result of information presented in the Tribe's Self-Sufficiency Plan.

The final outcome of the restoration options presented was the creation of the Coquille Forest by enactment of P.L. 104-208 (the Coquille Forest Act) on September 30, 1996. This Public Law, passed by the U.S. Congress and signed by President Clinton, restored 5,410 acres of ancestral homelands to the Coquille Indian Tribe and designated the restored lands as the Coquille Forest. At the time of conveyance to the Tribe, the Bureau of Land Management (BLM) was managing these lands as part of the Oregon and California Railroad Revested Lands (O&C Lands) in Coos County, Oregon.

The *Coquille Forest Act* allows the modern-day Coquille Indian Tribe an opportunity to reaffirm Tribal stewardship over a small portion of its ancestral homelands, and to reestablish many of the Tribal cultural traditions that were once practiced on these landscapes. The purpose for the creation of the Coquille Forest was described by Senator Hatfield in his statement before the U.S. Senate concerning Amendment No. 5150 to the Oregon Resources Conservation Act of 1996 [S. 1662]: "It is intended to establish a Coquille Forest for the Coquille Tribe that will mesh into the broader forest management of Coos County. Within this context, the Coquille Forest is to provide a basis for restoring the Tribe's culture as well as *providing economic benefits*" [Congressional Record: Senate, pg. S9656, August 2, 1996].

## **Forest Management Planning History and Future Direction**

The timeline below illustrates the intricate, thirty-year history of forest management associated with the Coquille Forest from 1989 to 2018.

### *1989 Coquille Restoration Act (P.L. 101-42)*

- Required preparation of Economic Self-Sufficiency Plan.
- Acquiring forest lands to create the Coquille Forest was the cornerstone of Economic Self-Sufficiency Plan.

### *1996 Coquille Forest Act (P.L. 104-208)*

- Coquille Forest created by conveying 5,410 acres of BLM lands to the Tribe. Unique requirement to manage forest subject to Standard and Guidelines of "adjacent or nearby federal forest lands" – Northwest Forest Plan (NFP).
- Two-year transition period to transfer management from BLM to BIA/Tribe. Coquille Forest lands taken into trust by the Secretary of the BIA September 1998.

### *1999 Coquille Forest Resource Management Plan (CFRMP)*

- Part I – Federal Management Direction adopted the NFP Standards and Guidelines of the 1995 BLM Coos Bay District Resource Management Plan (RMP).
- Part II – Tribal Management Direction established Standards and Practices for archaeological and Tribal cultural resources.
- Overarching management direction for first two-decades was to accelerate

conversion of older stands that had exceeded culmination of mean annual increment and were in declining growth to younger, thrifty stands.

#### *2010 Coquille Self-Governance Compact*

Self-Governance Compact entered into between the Coquille Tribe and the Assistant Secretary. Indian Affairs authorized by Title IV of the Indian Self-Determination and Education Assistance Act, P.L. 93-638, as amended. Principles set forth in the Compact include: 1) the transfer of control to Tribal government; 2) the removal of federal obstacles to effective self-governance; 3) an orderly transition from Federal domination; 4) the recognition that the Tribe's policies and procedures shall be applied in the execution of the Compact and the decisions of the Tribal Council shall be respected by the Federal government; and 5) the recognition that the Tribe need not comply with BIA program guidelines, manuals, or policy directives.

#### *2011 Forest Stewardship Council (FSC) Certification*

- Internationally recognized third part certification that Coquille Forest management is sustainable and meets high standards of environmental protection.
- Promotes forest management principles that are long term, emphasize forest health, protects ecological and cultural values, and provides economic benefits to the Tribe.

#### *2012–2016 BLM Planning Process to Revise the 1995 Resource Management Plan (RMP)*

- BLM completed a five-year planning process to revise the 1995 Resource Management Plans for the Coos Bay and other Districts within the range of the Northern Spotted Owl.
- The Coquille Tribe participated in the planning process as a member of the BLM Westside Steering Committee and as a Cooperating Agency under the National Environmental Policy Act (NEPA). For the most part Tribal input was ignored.
- A dominant purpose of the proposed new RMP was to "coordinate management of BLM Lands surrounding the Coquille Forest with the Coquille Tribe." The BLM failed to meet this dominant purpose.
- The final proposed RMP resulted in less coordination with the Tribe, greater uncertainty, greater conflict with DOI policies and trust obligations and defeated the Congressional intent of the Coquille Forest Act.
- The Tribe filed a formal protest against the proposed RMP, listing issues of violation of the Coquille Forest Act and the federal trust responsibility, taking actions which conflict with BLM's prior planning efforts and promises to the Tribe, and failure to consult with the BIA regarding effects of the Plan on the Coquille Forest.
- In its response to the Tribe's protest, the BLM denied all protest issues.

#### *2016 New BLM Resource Management Plan (RMP) Approved*

- Replaced the 1995 BLM Coos Bay District Plan and replaced the NFP Standards and Guidelines with new management directions that would have severe negative impacts on the Coquille Forest.
- BLM's elimination of the NFP Standards and Guidelines and establishment of new land allocations which would preclude most timber harvesting on the Coquille Forest and forced the Tribe to seek other alternatives to comply with the "adjacent or nearby federal lands" management requirement in the Coquille Forest Act.

### *2017 CIT Coquille Forest Ordinance and CFRMP Transition Plan*

- Tribe adopted the Coquille Forest Ordinance which: 1) establishes that the dominant purpose of the forest is to generate sustainable revenues to support Tribal government programs; 2) defines "adjacent and nearby federal lands" for purposes of the Coquille Forest Act; 3) affirms that all statutory provisions of the National Indian Forest Resources Management Act (NIFRMA) and the Indian Trust Asset Reform Act (ITARA) apply to the Secretary and the Coquille Forest; and 3) mandates the Secretary of the Interior to continue management of the Coquille Forest under the NFP Standards and Guidelines until such time as new, amended or additional management objectives and standards are prescribed consistent with federal law.
- Tribe and BIA approved the CFRMP Transition Plan (2016-2020) to implement provisions of the Coquille Forest Ordinance by providing a transition from previous federal management under the BLM's Coos Bay District Plan to federal management under the Forest Service Powers Ranger District Plan, which retained use of the NFP standards and guidelines.

### *2018 Western Oregon Tribal Fairness Act (P.L. 115-103)*

- Decouples the Coquille Forest from the "adjacent or nearby federal forest lands" management requirement.
- Eliminates language in the Coquille Forest Act allowing citizen lawsuits against the Secretary for alleged violations of the Act.
- Facilitates development of an Indian Trust Asset Management Plan (ITAMP) under the Indian Trust Asset Reform Act (ITARA) for future management of the Coquille Forest by eliminating the need to address compliance with management requirements on "adjacent or nearby federal lands".

### *2018 Interim Coquille Forest Resource Management Plan (ICFRMP)*

- The ICFRMP will provide authority and establish direction to manage Coquille Forest solely under the NIFRMA, decoupled from prior requirements of "adjacent or nearby federal land" management.
- The interim plan transitions management of the Coquille Forest from the present situation – decoupled and under NIFRMA – to the Tribe's eventual goal of management under an approved ITAMP as a participant in the Demonstration Project authorized by Title II of the ITARA.

## **Applicable Tribal and Federal Laws, Regulations, and Other Standards**

### **Tribal Laws**

As a sovereign nation, the tribe has laws in place that govern the forest management practices of the Coquille Forest.

#### *Coquille Forest Ordinance (2017)*

The Tribe adopted the Coquille Forest Ordinance which:

1. Establishes that the dominant purpose of the forest is to generate sustainable revenues to support Tribal government programs,
2. Defines "adjacent and nearby federal lands" for purposes of the Coquille Forest Act,

3. Affirms that all statutory provisions of the National Indian Forest Resources Management Act (NIFRMA) and the Indian Trust Asset Reform Act (ITARA) apply to the Secretary and the Coquille Forest, and
4. Mandates the Secretary of the Interior to continue management of the Coquille Forest under the NFP Standards and Guidelines until such time as new, amended or additional management objectives and standards are prescribed consistent with federal law.

#### *Coquille Self-Governance Compact (2010)*

The Self-Governance Compact entered into between the Coquille Tribe and the Assistant Secretary of Indian Affairs provides for carrying out self-governance as authorized by Title IV of the Indian Self-Determination and Education Assistance Act, P.L. 93-638, as amended. The Compact enables the United States to maintain and improve its unique and continuing relationship with and responsibility to the Tribe through Tribal self-governance. Principles set forth in the Compact include:

1. The transfer of control to Tribal government,
2. The removal of federal obstacles to effective self-governance,
3. An orderly transition from Federal domination,
4. The recognition that the Tribe's policies and procedures shall be applied in the execution of the Compact and the decisions of the Tribal Council shall be respected by the Federal government, and
5. The recognition that the Tribe need not comply with BIA program guidelines, manuals or policy directives.

Management of the Coquille Forest and other Tribal trust forest lands is included as a Programs, Services, Functions, and Activities (PSFA) in the Tribe's Self-Governance Compact.

### **Federal**

The unique nature of the tribe's government to government relationship with the United States means that the following legislation from the federal government affects the Coquille Indian Tribe and their management of the Coquille Forest.

#### *Coquille Forest Act of 1996 (P.L. 104-208)*

The Coquille Forest was created by conveying 5,410 acres of BLM lands to the Tribe. There was a unique requirement to manage forest subject to Standard and Guidelines of "adjacent or nearby federal forest lands" under the Northwest Forest Plan (NFP). It provided a two-year transition period to transfer management from BLM to BIA/Tribe. Coquille Forest lands were taken into trust by the Secretary (BIA) in September 1998.

#### *National Indian Forest Resources Management Act of 2004 (P.L. 101-630)*

Directs the Secretary of the Interior to undertake forest management activities on Indian forest land with the participation of the lands' beneficial owners in a manner consistent with the Secretary's trust responsibility and with the objectives of the beneficial owners. Requires the Secretary to comply with Tribal laws pertaining to Indian forest lands.

#### *Western Oregon Tribal Fairness Act of 2018 (P.L. 115-103)*

Decouples the Coquille Forest from the "adjacent or nearby federal forest lands" management requirement. Eliminates language in the Coquille Forest Act allowing citizen

lawsuits against the Secretary for alleged violations of the Act. Facilitates development of an Indian Trust Asset Management Plan (ITAMP) under the ITARA for future management of the Coquille Forest by eliminating the need to address compliance with management requirements on "adjacent or nearby federal lands".

#### *25 CFR Part 163 Forestry Regulations*

25 CFR Part 163 contains the federal regulations promulgated by the Secretary of the Interior to implement provisions of the National Indian Forest Resources Management Act. These regulations establish objectives for the management of Indian forest lands, provide for Secretarial recognition of Tribal laws, and set forth requirements for forest management and operations. Since the implementation of the Self-Governance Compact, the Tribe is not required to comply with BIA program guidelines, manuals or policy directives. 25 CFR Part 163 regulations provide the principal federal requirements for management of the Coquille Forest and other Tribal trust forestlands.

#### *National Environmental Policy Act (NEPA – P.L. 91-190), Endangered Species Act (ESA – P.L. 93-205), and National Historic Preservation Act (NHPA – P.L. 89-665)*

NEPA, ESA, and NHPA are federal statutes that apply to the management of Indian trust forest lands. Compliance with NEPA requires the completion of appropriate environmental documents to demonstrate consideration of the effects proposed actions may cause on the human environment. ESA compliance requires any proposed activity that has potential to threaten, harm, and/or harass any species listed as threatened or endangered under the ESA, or impact the critical habitat of any threatened and/or endangered species, will be analyzed pursuant to Section 7 of the Act. NHPA compliance requires addressing the effects of proposed actions and/or undertakings on historic resources, the protection and preservation of historic resources on Indian trust lands and the enforcement of prohibitions against excavating, removing or damaging archaeological resources on Indian trust lands.

#### *Indian Trust Asset Reform Act (ITARA – P.L. 114-178)*

The ITARA became law on June 22, 2016. Title II of ITARA authorizes the Secretary of the Interior to establish and carry out an Indian trust asset management demonstration project. The demonstration project will allow participating Tribes to enter into, approve, and carry out forest land management activity or surface leasing transaction without approval of the Secretary if certain conditions are met. Title II of ITARA, further requires Tribes who have requested and been approved to participate in the project to submit a proposed Indian Trust Asset Management Plan (ITAMP). It is the Coquille Tribe's intent to participate in the demonstration project for the purpose of carrying out forest management activities on the Coquille Forest and other Tribal trust forestlands.

### **Other Standards**

The following standards are applicable to the management of the Coquille Forest and describe intergovernmental decision-making processes as well as certification standards to which the tribe holds itself.

#### *Secretarial Order 3206, American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act*

Clarifies responsibilities and provides policy guidance within the DOI and Commerce when actions taken under authority of the Endangered Species Act (ESA) affect or may affect, Indian lands, tribal trust resources, or the exercise of American Indian tribal rights, as defined in the Order. Policies and principles enumerated in this Order will be considered in



implementing provisions of the ESA in management of the Coquille Forest.

*Executive Order 13175, Consultation and Coordination with Indian Tribal Governments*

This Executive Order establishes standards of behavior for federal agencies and departments when considering, developing and implementing policies that are anticipated to have significant impact on one or more recognized Tribes, and requires them to consult with Indian Tribal governments. This order also restates the federal government's commitment to Tribal self-governance, sovereignty, and self-determination.

*Forest Stewardship Council Certification (2011)*

Internationally recognized third-party certification that Coquille Forest management is sustainable and meets high standards of environmental protection. Promotes long term forest management principles, emphasize forest health, protects ecological and cultural values, and provide economic benefits to the Tribe.

### **List of Acronyms**

BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
CFR	Code of Federal Regulations
CFRMP	Coquille Forest Resource Management Plan
CIT	Coquille Indian Tribe
DOI	Department of the Interior
ESA	Endangered Species Act
FSC	Forest Stewardship Council
ICFRMP	Interim Coquille Forest Resource Management Plan
ITAMP	Indian Trust Asset Management Plan
ITARA	Indian Trust Asset Reform Act
NEPA	National Environmental Policy Act
NFP	Northwest Forest Plan
NHPA	National Historic Preservation Act
NIFRMA	National Indian Forest Resources Management Act
O&C Lands	Oregon and California Railroad Revested Lands
P.L.	Public Law
PSFA	Programs, Services, Functions, and Activities
RMP	Resource Management Plan