

GOVERNMENTAL NOTICE ORDINANCE
KLAMATH TRIBAL CODE
Title 2 Chapter 17

17.01 Findings.

(a) Findings. The Tribes has a compelling interest in protecting tribal sovereignty and jurisdiction and the validity of tribal laws. Tribal sovereignty and jurisdiction or the validity of tribal law may be questioned in cases in the Tribal Court in which the Tribes or any agency, officer, or employee thereof is not a party. With adequate, timely, and uniform notice of cases in the Tribal Court that question tribal sovereignty and jurisdiction or the validity of tribal law, the Tribes can effectively assess whether and how to participate in such cases.

17.02 Purpose and Authority.

(a) Purpose. The purpose of this law is to provide the Tribes with adequate, timely, and uniform notice of any and all cases in the Tribal Court that question tribal sovereignty and jurisdiction or the validity of any tribal law and in which the Tribes or any agency, officer, or employee thereof is not a party.

(b) Authority. This Ordinance is adopted pursuant to the authority vested in the Klamath Tribes General Council by virtue of its inherent sovereignty as an Indian Tribal government and Article V of the Constitution of the Klamath Tribes.

17.03 Notice Required.

(a) Initial Notice. Upon the filing of any action or proceeding in which the Tribes or any agency, officer or employee thereof is not a party, the Tribal Court will promptly inform all parties in writing of this law. Any party to such a proceeding that questions tribal sovereignty or jurisdiction or the validity of any tribal law will give written notice thereof to the Senior Tribal Attorney. Such notice will identify the action or proceeding and will include a brief written explanation of the grounds upon which tribal sovereignty or jurisdiction or the validity of tribal law is being questioned. Any party giving notice under this law will simultaneously file proof with the Tribal Court that notice has been given as required by the law.

(b) Continued Notice. If notice is required under this law, upon the Tribes timely written request, the Tribal Court or any party will timely serve copies of all subsequent filings and orders in the case on the Senior Tribal Attorney.

17.04 Manner and Timing of Notice.

(a) Simultaneous Notice. Notice required under this law will be given in writing and simultaneously with the raising of a question about tribal sovereignty or jurisdiction or the validity of any tribal law.

(b) Notice by Certified Mail. Initial notice required under Section 17.03(a) of this law will be made by United States Postal Service certified mail. Further filings or court orders need not be served certified. Other requirements regarding the manner by which notice under this law will be given may be developed by the Tribal Court and approved by the Tribal Council.

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17.05 Tribal Participation Following Notice.

(a) Intervention. Upon timely motion or application, the Tribes may intervene as a matter of right in any action or proceeding in the Tribal Court that questions tribal sovereignty or jurisdiction or the validity of any tribal law. Upon intervening under this law, the Tribes may assert any and all available claims and defenses and may present any and all admissible evidence relating to the question of its sovereignty or jurisdiction or the validity of any tribal law, and is entitled to the same relief, including costs, as if the Tribes had instituted a separate action or proceeding; *provided that*, the Tribes will not be required to pay costs of litigation in any action or proceeding in which it has intervened under this law. Intervention under this law does not abridge, limit, or otherwise affect the right of the Tribes to commence, maintain, defend, or otherwise intervene in actions or proceedings in the Tribal Court.

(b) Amicus Curiae. Upon timely motion or application, the Tribes may appear as *amicus curiae* (friend of the court) in any action or proceeding that questions Tribal sovereignty or jurisdiction or the validity of any tribal law.

(c) Information Sharing and Consultation. In any action or proceeding in the Tribal Court that questions tribal sovereignty or jurisdiction or the validity of any tribal law in which the Tribes does not intervene or appear as *amicus curiae*, the Tribes may nevertheless share important knowledge with any party involved in the action or proceeding. This could include assistance in responding to formal discovery requests or acting as an informal consultant.

(d) No Participation. The Tribes may timely determine that it is in the best interest of the Tribes not to intervene, appear as *amicus curiae*, or otherwise participate in an action or proceeding in the Tribal Court that questions tribal sovereignty or jurisdiction or the validity of any tribal law.

(e) Authority to Determine Participation. The Senior Tribal Attorney may determine participation on behalf of the Tribes under this law. Before determining participation on behalf of the Tribes under this law in any specific action or proceeding in Tribal Court, the Senior Tribal Attorney will obtain the approval and direction of the Tribal Council.

(f) Timeliness of Participation Determinations. Unless the Tribal Court orders otherwise, where timely and proper notice has been given under this law, the Tribes will notify the Tribal Court and parties in writing within sixty (60) days of receipt by the Tribes of such notice of any determination to participate in any action or proceeding by way of intervention or appearance as *amicus curiae*.

17.06 Failure to Give Notice.

(a) Failure to Give Notice not Jurisdictional or Waiver of Rights. The failure of the Tribal Court or a party to give notice as required by this law does not deprive the Tribal Court of jurisdiction and is not a waiver or modification of any rights otherwise timely asserted by any

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party. Any notice given under this law is not a substitute for, or a waiver or a modification of, any other pleading requirement under tribal law.

(b) Late Notice. If the Tribal Court or a party discovers that notice to the Tribes under this law should have been but has not been given, the Tribal Court or party will promptly give notice in writing to the Tribes as required by this law. The Tribal Court may stay the action or proceeding at any stage to allow compliance with this law. If final judgment has already been entered, the Tribes may motion or apply for rehearing as of right, the Tribal Court will entertain promptly any such motions or applications for rehearing by the Tribes, and in disposing of such motions the Tribal Court, for good cause shown, may vacate a judgment or any portion thereof.

(c) Civil Sanctions. The Tribal Court may impose civil sanctions on any party for willful or unreasonable failure to give notice as required by this law, and may use other reasonable means to cure any significant harm caused by failure to give notice as required by this law.


17.07 Tribal Jurisdiction and Sovereign Immunity From Suit Unaffected.

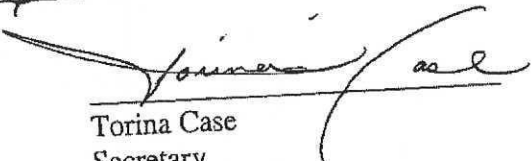
(a) Jurisdiction. Nothing in this law shall be deemed or construed to deprive, limit, or extend the jurisdiction of the Tribal Court.

(b) Sovereign Immunity from Suit. Notice required under this law does not authorize a party to name the Tribes or any agencies, officers, or employees thereof as a party to any action or proceeding. Nothing in this law shall be deemed or construed as a waiver or limitation of the sovereign immunity from suit of the Tribes, its agencies, officer, or employees.

Certification

We, the undersigned, Tribal Council Chairman and Secretary of the Klamath Tribes, do hereby certify that at a Regular General Council meeting held on the 18th day of November, 2006 with a quorum present, the General Council took action and duly adopted this Ordinance by a vote of 47 for, 0 opposed, and 0 abstentions by General Council Resolution 2006-009.


Allen Foreman
Chairman
The Klamath Tribes


Torina Case
Secretary
The Klamath Tribes

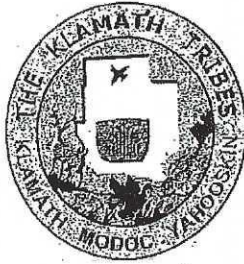
Legislative History:

Originally adopted by the Klamath Tribes General Council on November 18, 2006 pursuant to General Council Resolution 2006-009.

Date Adopted: 11/18/2006

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Most Recent Amendment:



The Klamath Tribes

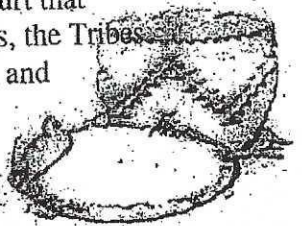
GENERAL COUNCIL RESOLUTION #2006-009

GENERAL COUNCIL RESOLUTION APPROVING THE KLAMATH TRIBES GOVERNMENTAL NOTICE ORDINANCE

- Whereas,** The Klamath Tribes constitute a sovereign nation based on the inherent sovereignty of the Klamath, Modoc and Yahooskin Band of Snake Indians;
- Whereas,** The sovereignty of the Klamath Tribes was recognized and affirmed by the Treaty of 1864; and
- Whereas,** The sovereignty of the Klamath Tribes was once again recognized and affirmed by the Klamath Indian Tribes Restoration Act of August 27, 1986 (P.L. 99-398); and
- Whereas,** The General Council of the Klamath Tribal membership is the governing body of the Tribes, by the authority of the Constitution of the Klamath Tribes (Article VI, & VII, Section IV E) as approved and/or adopted by the General Council amended on November 25, 2000; and
- Whereas,** Article III, Membership, Enrollment and Voting of the Constitution of the Klamath Tribes recognizes the voting authority of the General Council members who have attained the age of 18 years; and
- Whereas,** The Tribes has a compelling interest in protecting tribal sovereignty, jurisdiction, and the validity of tribal laws; and
- Whereas,** Tribal sovereignty, jurisdiction, or the validity of tribal laws may be questioned in cases in the Tribal Court in which the Tribes or any agency, officer, or employee of the Tribes is not a party; and
- Whereas,** With adequate, timely, and uniform notice of cases in the Tribal Court that question tribal sovereignty, jurisdiction, or the validity of tribal laws, the Tribes can effectively assess whether and how to participate in such cases; and

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GCR 2006-009




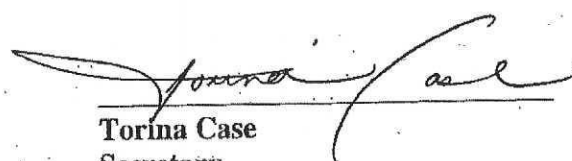
Whereas, To ensure that the Tribes has adequate, timely, and uniform notice of any and all cases in the Tribal court that question tribal sovereignty, jurisdiction, or the validity of any tribal law and in which the Tribe or any agency, officer, or employee thereof is not a party, it is advisable and necessary to enact the attached Governmental Notice Ordinance;

Now therefore be it resolved; that the General Council approves and enacts the attached Governmental Notice Ordinance to be effective on the date of approval and enactment.

Certification

We, the undersigned, Tribal Council Chairman and Secretary of the Klamath Tribes, do hereby certify that at a scheduled General Council meeting held on the 18th day of November, 2006, the General Council duly adopted this resolution by a vote of 47 for, 0 opposed, and 6 abstentions.


Allen Foreman
Chairman
The Klamath Tribes


Torina Case
Secretary
The Klamath Tribes

