

# A letter on the Middle Oregon Treaty of 1855

*Ultimately, one should ask whether Felix Cohen, the greatest of all Indian lawyers, was making an overdrawn point about the old promises when he discussed the role of Indian law in our public law system; Federal Indian Law, Getches, Wilkinson and Williams:*

*"The Indian plays much the same role in our American society that the Jews played in Germany. Like the miner's canary, the Indian marks the shift from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall in our democratic faith." – Felix S. Cohen, The Erosion of Indian Rights, 195053, 623 Yale L.J. 348, 390 (1953).*

The Middle Oregon Treaty of 1855 Symposium is connecting the Indianess that our beloved ancestors passed on to us through teachings, ritual, covenants and written law. Our tribal way of life is a gift from those ancestors; we walk on the lands they walked on, cherish the waters they stewarded, and learn from their teachings how to

live with the Creator's Gifts.

Our strength is our people, the Warm Springs, Wasco and Paiute tribes in our Confederacy. The covenants we have in our blood and hearts. As with the Warriors, gatherers, hunters and providers of the past, we must use tools to keep walking on as our tribal ways tell us to do. One great tool is the Law of the Land... a Treaty... not just any treaty... Our treaty—the Middle Oregon Treaty of 1855.

Please note when I say 'our' I mean the big 'OUR'—On June 25, 1855 the Middle Treaty of Oregon was negotiated between the Middle Oregon Tribes, the Warm Springs and Wascos with the United States of America... that includes every American citizen not just the tribes.

The Middle Oregon Treaty tribes ceded (gave title of land) to the United States of America—10 million acres... One-hundred percent of Jefferson and Wasco counties ceded to the United States. Early history deemed tribal peoples of America as only occupiers of the land, primitive hunters and gatherers—that we didn't own the land only occupied.... Occupied for thousands of years....? (Hear

more on this from Professor Miller).

The religions of the day declared us sub-human, primitive, heathen savages... and if we didn't convert to their religion, we could be conquered or exterminated for religious reasons.

The land related to our Indianess and way of life is 10 million acres plus, not just the 640,000 acres reserved for our exclusive use. The word 'reserved'—an important word to relate to the Treaty and our tribal way of life: We reserved, kept for ourselves, retained rights from the past, to today and into the future... Ewa-cha-nai.

No one gave us the lands for the reservation, no one gave the right to fish, hunt, gather and pasture our stocks on and off-reservation. We had those before the United States of America, Oregon or Middle Oregon Treaty of 1855. The reserved rights doctrine.

In America, you hear of the private property owners talk about their bundle of rights, so also do the four Columbia River Treaty tribes—Yakama, Umatilla, Nez



Louie Pitt

rights is up to the respective tribes.

In our treaty 50 percent of the lands ceded to the U.S. is currently under federal ownership. The other 50 percent that is non-federal represents the contemporary challenges of educating our neighbors of the land, our rights and our shared responsibilities to live up to the spirit behind our Treaty.

Middle Oregon Treaty is an old out-of-date document. So is the United States Constitution. A good reminder of being here first is: Indians are the only people mentioned in the United States Constitution, and the Constitution declares Treaties as the '... Law of the land.'

We, tribal people are still here, on our homelands. We've been through tough times, earthquakes, fires, volcanoes, diseases, floods... we'll make it through the American experience and proudly remain as we were yesterday. The treaty helps us live the way we want to live, judging new values and how they fit our way of life.

*'Great nations like great men should keep their word.'* – U.S. Supreme Court Justice Hugo Black, 1953.

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## The Treaty

**Article 5.** The President may, from time to time, at his discretion, cause the whole, or such portion as he may think proper, of the tract that may now or hereafter be set apart as a permanent home for these Indians, to be surveyed into lots and assigned to such Indians of the confederated bands as may wish to enjoy the privilege, and locate thereon permanently.

To a single person over twenty-one years of age, forty acres; to a family of two persons, sixty acres; to a family of three and not exceeding five, eighty acres; to a family of six persons, and not exceeding ten, one hundred and twenty acres; and to each family over ten in number, twenty acres for each additional three members.

And the President may provide such rules and regulations as will secure to the family in case of the death of the head thereof the pos-

session and enjoyment of such permanent home and the improvement thereon; and he may, at any time, at his discretion, after such person or family has made location on the land assigned as a permanent home, issue a patent to such person or family for such assigned land, conditioned that the tract shall not be aliened or leased for a longer term than two years and shall be exempt from levy, sale, or forfeiture, which condition shall continue in force until a State constitution embracing such lands within its limits shall have been formed, and the legislature of the State shall remove the restrictions.

Provided, however, That no State legislature shall remove the restrictions herein provided for without the consent of Congress.

And provided, also, That if any person or family shall at any time neglect or refuse to occupy or till a portion of the land assigned and on which they have located, or shall

roam from place to place indicating a desire to abandon his home, the President may, if the patent shall have been issued, revoke the same, and if not issued, cancel the assignment, and may also withhold from such person, or family, their portion of the annuities, or other money due them, until they shall have returned to such permanent home and resumed the pursuits of industry, and in default of their return the tract may be declared abandoned, and thereafter assigned to some other person or family of Indians residing on said reservation.

**Article 6.** The annuities of the Indians shall not be taken to pay the debts of individuals.

**Article 7.** The confederated bands acknowledge their dependence on the Government of the United States, and promise to be friendly with all the citizens thereof,

and pledge themselves to commit no depredation on the property of said citizens; and should any one or more of the Indians violate this pledge, and the fact be satisfactorily proven before the agent, the property taken shall be returned, or in default thereof, or if injured or destroyed, compensation may be made by the Government out of their annuities; nor will they make war on any other tribe of Indians except in self-defense, but submit all matters of difference between them and other Indians to the Government of the United States, or its agents for decision, and abide thereby; and if any of the said Indians commit any depredations on other Indians, the same rule shall prevail as that prescribed in the case of depredations against citizens; said Indians further engage to submit to and observe all laws, rules, and regulations which may be prescribed by the United States for the government of said Indi-

ans. Article 8. In order to prevent the evils of intemperance among said Indians, it is hereby provided, that if any one of them shall drink liquor to excess, or procure it for others to drink, his or her proportion of the annuities may be withheld from him or her for such time as the President may determine.

**Article 9.** The said confederated bands agree that whensoever, in the opinion of the President of the United States, the public interest may require it, that all roads, highways, and railroads shall have the right of way through the reservation herein designated, or which may at any time hereafter be set apart as a reservation for said Indians.

This treaty shall be obligatory on the contracting parties as soon as the same shall be ratified by the President and Senate of the United States.

Joel Palmer, Superintendent of Indian Affairs, O.T.

## SIGNERS OF THE TREATY WITH THE TRIBES OF MIDDLE OREGON

- WASCO
- Mark
- William Chenook
- Cush Kella
- LOWER DE CHUTES
- Stock-etley
- Iso
- UPPER DE CHUTES
- Symtustus
- Locksquissa
- Shick-ame
- Kuck-up
- Tenino
- Alexsee
- Talekish
- DOG RIVER WASCO
- Walachin
- Tah Symph
- Ash-na-chat
- Che-wot-nleth
- Te-cho
- Sha-qually
- Louis
- Yise

- Stamite
- Ta-cho
- Penop-teyot
- Elosh-kish-kie
- Am Zelic
- Ke-chac
- Tanes Salmon
- Ta-ko
- David
- Sowal-we
- Postie
- Yawan-shewit
- Own-aps
- Kossa
- Pa-wash-ti-mane
- Ma-we-nit
- Tipso
- Jim
- Peter
- Na-yoct
- Wal-tacom
- Cho-kalth
- Pal-sta
- Pouh-que
- Eye-eya
- Kam-kus
- Sim-yo

- Kas-la-chin
- Pio-sho-she
- Mop-pa-man
- Sho-es
- To-mo-lits
- Ka-lim
- Ta-yes
- Was-en-was
- E-yath Kloppy
- Paddy
- Sto-quin
- Charley-man
- Ile-cho
- Pate-cham
- Yan-che-woc
- Ya-toch-la-le
- Alpy
- Pich
- William
- Peter
- Ischa Ya
- George
- Jim
- Se-ya-las-ka
- Ha-lai-kola
- Pierro
- Ash-lo-wash

- Paya-tilch
- Sae-pa-waltcha
- Shaquilkey
- Wa-qual-lol
- Sim-kui-kui
- Wach-chiley
- Chi-kal-kin
- Squa-yash
- Sha Ka
- Keau-i-sene
- Che-chis
- Sche-noway
- Scho-ley
- We-ya-thley
- Pa-leyathley
- Keyath
- I-poth-pal
- S. Kolps
- Mission John
- Le Ka-ya
- La-wit-chin
- Low-las
- Thomson
- Charley
- Copefornia
- Wa-toi-mettle
- Ke-la

- Pa-ow-ne
- Kuck-up
- Poyet
- Ya-wa-clax
- Tam-cha-wit
- Tam-mo-yo-cam
- Was-ca-can
- Tallr Kish
- Waleme Toach
- Site-we-lock
- Ma-ni-necht
- Pich-kan
- Stolameta
- Tamayechotote
- Qua-losh-kin
- Wiska Ka
- Che-lo-tha
- Wetone-yath
- We-ya-lo-chol-wit
- Kon-ne
- La-wit-chin
- Walimtalim
- Tash Wick
- Hawatch-can
- Ta-wait-cla
- Patoch Snort
- Tachins

- Comochal
- Passayei
- Watan-cha
- Ta-wash
- A-nouth-shot
- Hanwake
- Pata-la-set
- Tash-weict
- Wescha-matolla
- Chle-mochle-mo
- Quae-tus
- Skuilts
- Panospam
- Ash-ka-wish
- Pasquai
- Wasso-kui
- Quaino-sath
- Cha-ya-tema
- Wa-ya-lo-chol-wit
- Flicht Kui Kui
- Walcha kas
- Watch-tla
- Enias



**MEMORY OF THE LAND**  
TREATY OF THE  
MIDDLE COLUMBIA RIVER  
TRIBES AND BANDS