**STATEMENT FOR THE RECORD FROM THE**
**UNITED STATES DEPARTMENT OF THE INTERIOR**
**TO THE**
**SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS**
**HOUSE NATURAL RESOURCES COMMITTEE**
**U.S. HOUSE OF REPRESENTATIVES**
**ON**
**H.R. 2606 "THE STIGLER ACT AMENDMENTS OF 2017''**

**OCTOBER 4, 2017**

Chairman LaMalfa, Ranking Member Torres, and Members of the Subcommittee, thank you for the opportunity to present the Department of the Interior's (Department) views on H.R. 2606, the Stigler Act Amendments of 2017. The Department supports H.R. 2606 with amendments.

## Five Tribes Allotments and Stigler Act Background

The Tribes referred to in the Act of August 4, 1947, 61 Stat. 731 (the "Stigler Act"), as the Five Civilized Tribes (the Cherokee, Choctaw, Chickasaw, Creek, and Seminole Tribes of Oklahoma) were removed from their homelands in the southeastern part of the United States pursuant to treaties wherein the United States agreed to convey lands to these tribes west of the Mississippi River. By 1835, the Five Civilized Tribes occupied nearly all of present-day Oklahoma.

The lands of the Five Civilized Tribes could not be allotted under the General Allotment Act because of the Tribe's fee ownership. However, the Tribes were eventually forced to agree to allot their lands in severalty. Allotment of the lands of the Five Tribes was by fee patent signed by the Chiefs or Governor of the Tribes in accordance with the individual allotment agreements.

The allotments varied greatly in size from 40 to 220 acres. Separate deeds were issued for "homestead" and "surplus" allotments, and the restrictions varied by the type of allotment, the allottee's Tribe, and the allottee's degree of Indian blood or lack thereof.

The Allotment Agreements between the United States and the individual Tribes provided for varying periods of inalienability for the allotments. However, after allotment, Congress passed laws which restricted the alienation of some allotments and allowed others to be freely alienable. This series of mostly uncodified Acts governs restricted status of the land and funds of the Five Civilized Tribes. The Stigler Act, as amended by the Act of August 11, 1955, 69 Stat. 666, now governs the restricted status of the Five Tribes' allotted lands based on the Five Tribes blood quantum of the Indian landowner.

Section 1 of the Stigler Act provides that all restrictions are removed at the death of the Indian landowner, provided that heirs and devisees of one-half blood or more of the Five Civilized Tribes may not convey lands that were restricted in the hands of the person from whom they were acquired without the approval of the county (now district) court in the county where the land is located.

The effect of this section of the Act is that, when a person owning restricted land passes away, only his heirs of at least one-half blood of the Five Civilized Tribes inherit their interest in a protected "restricted" status. The Department is aware of no other Tribes in the country where the trust or restricted status of their allotted lands are dependent upon the degree of blood of the owner.

**H.R. 2606**

H.R. 2606, the Stigler Act Amendments of 2017, would greatly benefit the Cherokee, Choctaw, Seminole, Chickasaw, and Muscogee (Creek) Nations by slowing the amount of land falling out of restricted status and allowing them to retain their land base. The Department supports H.R. 2606 with technical amendments.

H.R. 2606 references the Final Indian Rolls of the Five Civilized Tribes in Indian Territory. However, the Department's copies of the rolls reference them as the Index and Final Rolls of Citizens and Freedmen of the respective tribes. In order to avoid confusion, the Department suggests that language be included reference the rolls correctly. Additionally, Congress should include language clearly indicating whether Freedmen and intermarried white descendants are covered under the proposed legislation.

In addition, section 2 of H.R. 2606 would enact new provisions of the Stigler Act, which the Department recommends be clarified. The section indicates that a deceased Indian who died before the date of the enactment of H.R. 2606 is subject to restrictions if there has not been a final order of a court in a probate matter. There are numerous individual Five Tribes members who are deceased and whose property was the subject of a probate action that is now closed. So long as the heirs are half-blood or more, the Department has always treated property settled through a probate action as restricted. It is unclear whether this language is intended to mean that if a probate action has taken place the property is unrestricted even if inherited by half-blood individuals. If that is the intent, then large numbers of currently restricted allotments may become unrestricted.

Finally, the term "one-half degree" of Indian blood is used in the legislation. However, by repealing Section 2 of the 1947 Act, the bill has removed the definition of what constitutes Indian blood. The Department recommends including additional language to provide guidance on what would constitute someone of one-half or less Indian blood.

Thank you for the opportunity to present the Department's views on this legislation.