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Re: Comments on Renewal of Agency Information Collection for Probate of Indian Estates

Title: Probate of Indian Estates, Except for Members of the Osage Nation and Five Civilized Tribes, 25 CFR part 15. Brief Description of Collection: This part contains the procedures that the Secretary of the Interior follows to initiate the probate of the trust estate for a deceased person who owns an interest in trust or restricted property. The Secretary must perform the information collection requests in this part to obtain the information necessary to compile an accurate and complete probate file. This file will be forwarded to the Office of Hearing and Appeals (OHA) for disposition. Responses to these information collection requests are required to create a probate file for the decedent's estate so that OHA can determine the heirs of the decedent and order distribution of the trust assets in the decedent's estate.

The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

COMMENTS:

The Muscogee (Creek) Nation identified as a member of the Five Civilized Tribes is subject to the 1947 Act creating "restricted" lands of its citizens. These restrictions are based solely on blood quantum requirements of having 50% Indian Blood or more. The Muscogee (Creek) Nation along with the other members of the Five Civilized Tribes (by Resolution adopted by the Inter-Tribal Council of the Five Civilized Tribes) denounce the 1947 Act's intentions to create a lower class of people judged incompetent solely based on a degree of Indian blood as racist and in violation of the 14th Amendment of the US Constitution. Furthermore, subjecting probate of "restricted" lands to state courts are an erosion of tribal sovereignty and weakens tribal court jurisdiction systems. For these reasons we propose a repeal of the 1947 Act which would reduce the burden of the Agency in collecting information for Probate of "Restricted" Lands.

c) Ways to enhance the quality, utility and clarity of the information collected – we suggest tracking the respondents by trust and/or restricted lands so that we can determine respectively the burden to the Agency of serving our citizens holding "restricted" lands. The information collected should be cross referenced with the Nation's tribal court systems for integration purposes. By repealing the 1947 Act, the burden of the Agency would be reduced drastically and allow the tribal courts of the Five Civilized Tribes to conduct probate hearings concerning lands held by tribal members within their jurisdictions. This action would not impact the trust

responsibility of the federal government since restricted lands are not trust lands. However, should the Agency convert current restricted lands to trust it would reduce the confusion and eliminate cumbersome regulations. Tribal attorneys are able and willing to represent tribal citizens in probate proceedings while the Agency could review the outcomes to fulfill their trust responsibility.

d) Ways to minimize the burden of the collection of the information on the respondents – By repealing the 1947 Act, the burden of the Agency would be reduced drastically and allow the tribal courts of the Five Civilized Tribes to conduct probate hearings on tribal members' lands within their jurisdictions. By providing funds through Self Governance to the tribal courts for probate the trust responsibility of oversight by the Agency would continue but the time and effort currently expended would drop dramatically.