

TESTIMONY OF CHEROKEE NATION PRINCIPAL CHIEF BILL JOHN BAKER

ON BEHALF OF THE INTER-TRIBAL COUNCIL OF THE FIVE CIVILIZED TRIBES
HOUSE SUBCOMMITTEE ON INDIAN, INSULAR, AND ALASKA NATIVE AFFAIRS

OCTOBER 4, 2017



Bill John Baker
Principal Chief



Bill Anoatubby
Governor



Gary Batton
Chief



James R. Floyd
Principal Chief



Greg P. Chilcoat
Principal Chief

Mr. Chairman, I am Bill John Baker, Principal Chief of the Cherokee Nation. I am pleased to provide testimony today on H.R. 2606, the Stigler Act Amendments of 2017, on behalf of the Inter-Tribal Council of the Five Civilized Tribes (Inter-Tribal Council). The Inter-Tribal Council is an organization comprised of the tribal governments of the Muscogee Creek Nation, Seminole Nation, Choctaw Nation, Chickasaw Nation and the Cherokee Nation. Together our tribes represent more than 650,000 tribal citizens throughout the United States, or about a quarter of the entire population of Indian country.

I am here today to support H.R. 2606, which amends an archaic law enacted in 1947 that unfairly burdens citizens of the Five Tribes. This law has led to devastating land loss, which is inconsistent with modern federal policy and practice toward Indian tribes to increase tribal land holdings and restore tribal homelands. It is time to amend this Termination Era law that originates from a less enlightened time when federal policy was designed to dramatically diminish tribal homelands. So today, I am here on behalf of our Five Tribes to respectfully ask you to remedy this longstanding injustice.

I believe it is critical to first briefly examine the history of the lands of the Five Tribes, which is unique to all of Indian country.

Unlike other reservations of other tribes, the United States did not hold title to the Five Tribes lands. Instead, at the insistence of our tribal leaders at the time of our removal from our ancestral homelands, the United States deeded fee simple title to those lands to each Tribe, in exchange for huge tribal cessions of lands in the southeastern portion of the United States. Perhaps foreseeing the struggles to come, the leaders of the Five Tribes did not want the United States to have any ownership interest in their new lands in what would one day become the state of Oklahoma.

Because of this fee simple ownership, the United States had considerable difficulty forcing the Five Tribes to break apart their remaining tribal lands into individual allotments during the tribal land allotment era in the late nineteenth century. Despite these difficulties, Congress was ultimately successful in enacting a series of laws to force the Five Tribes to allot their lands. Due to the fee simple ownership of the tribe, tribal allotments were also held in fee simple by the individual Indian instead of held in trust by the United States as was common with other tribal allotments nationwide. There were, however, special restrictions on the owners' disposition of their allotments put in place by Congress. These restrictions prevented the tribal citizens from alienating, conveying, leasing, mortgaging or putting other liens or encumbrances on their allotments. The stated purpose of these restrictions was to keep allotted lands in the hands of tribal citizens.

Almost immediately after the restricted fee allotments were issued to the citizens of the Five Tribes, however, non-Indian interests were intent upon removing those restrictions and obtaining the lands that belonged to the citizens of the Five Tribes. In the early parts of the twentieth century, several laws were passed by Congress to produce this result, by removing restrictions based on the degree of Indian blood quantum of the individual owner. The most recent such law was the 1947 Act, also known as the Stigler Act, an uncodified law which prevents an Indian from inheriting land in restricted fee if he or she has a blood quantum that is below one-half degree of Indian blood. When restricted fee land is passed to heirs with less than one-half blood quantum, then all of the restrictions against alienation that have protected the property and its owner are stripped away forever.

With this background in mind, I would like to turn to the modern issues facing the Five Tribes, and how this legislation helps address those challenges.

The antiquated blood quantum requirement contained in the Stigler Act is unique to the Five Tribes. In no other tribe in the United States do the lands of tribal citizens lose their restricted status due to the blood quantum of the individual Indian. While these provisions of the Stigler Act were unusual enough at the time they were drafted, they are indefensible today. In an era where there is broad support for tribal self-

determination, and where federal dollars are devoted to increasing and protecting tribal land bases, it is time to put an end to the blood quantum based distinctions. The proposed amendments will bring parity to the citizens of the Five Tribes, treating individual restricted fee and trust land allotments equally and allow our citizens the opportunity to pass on their restricted Indian land to their children and grandchildren in restricted status. It is hard to overstate what this will mean to our citizens, who treasure their restricted allotments and the link they represent to both their family and their Nation.

I would like the subcommittee to take note of what these amendments will not do. These amendments will not create new restricted Indian land. It will only allow the current restricted fee land to remain in restriction regardless of the blood quantum of the Indian.

Included at the end of this testimony are two maps. The first map shows the number of restricted acres within the Five Tribes in 1916. At that time, the Five Tribes had more than 15 million acres of restricted land. The second shows that same area in 2015, when only a tiny fraction of that original acreage remained—just over 380 thousand acres. It is this fraction of remaining restricted fee land that we are seeking to protect with these amendments.

The technical amendments to the law are straightforward, and their impacts are limited to the Five Tribes and their citizens. Section 2 provides new language that clarifies that lineal descendants by blood of an original enrollee whose name appears on the Final Indian Rolls of the Five Civilized Tribes may maintain their land in restricted fee, regardless of the degree of blood of the land owner. This would include the estates of Indians who died prior to the enactment of the amendments, unless the estate had been subject to a final order determining the decedent's heirs or had been conveyed previously by deed or other approved method. The amendments also clarify that an owner of restricted fee property can have the restrictions lifted from his or her property if that is the desire of the individual tribal citizen. The rest of the language makes small, technical changes necessary to eradicate the one-half blood quantum requirement from the various places it appears.

In conclusion, while these amendments are limited and straightforward, the impact they will have on the Five Tribes and our citizens is enormous. For years, the Cherokee people have lived under a special set of laws that apply to only their lands, and the lands of other citizens of the Five Tribes. Even as the federal government has tried to enlarge and consolidate the land holdings of other tribes, grandparents in the Five Tribes have had to struggle with the knowledge that they are the last generation that will have the privilege of holding their family allotment as restricted Indian land.

The purpose of the Stigler Act was to move Indian land from tribal ownership to non-Indian ownership, and the law has been devastatingly successful in accomplishing that goal. While H.R. 2606 would not reverse 70 years of land loss, it would certainly help prevent even more of our tribal land from falling out of restricted status, and provide much-needed parity to the owners of restricted allotments within the Five Tribes.

I urge the subcommittee to favorably recommend this important legislation. Thank you for this opportunity to testify.

ATTACHMENTS

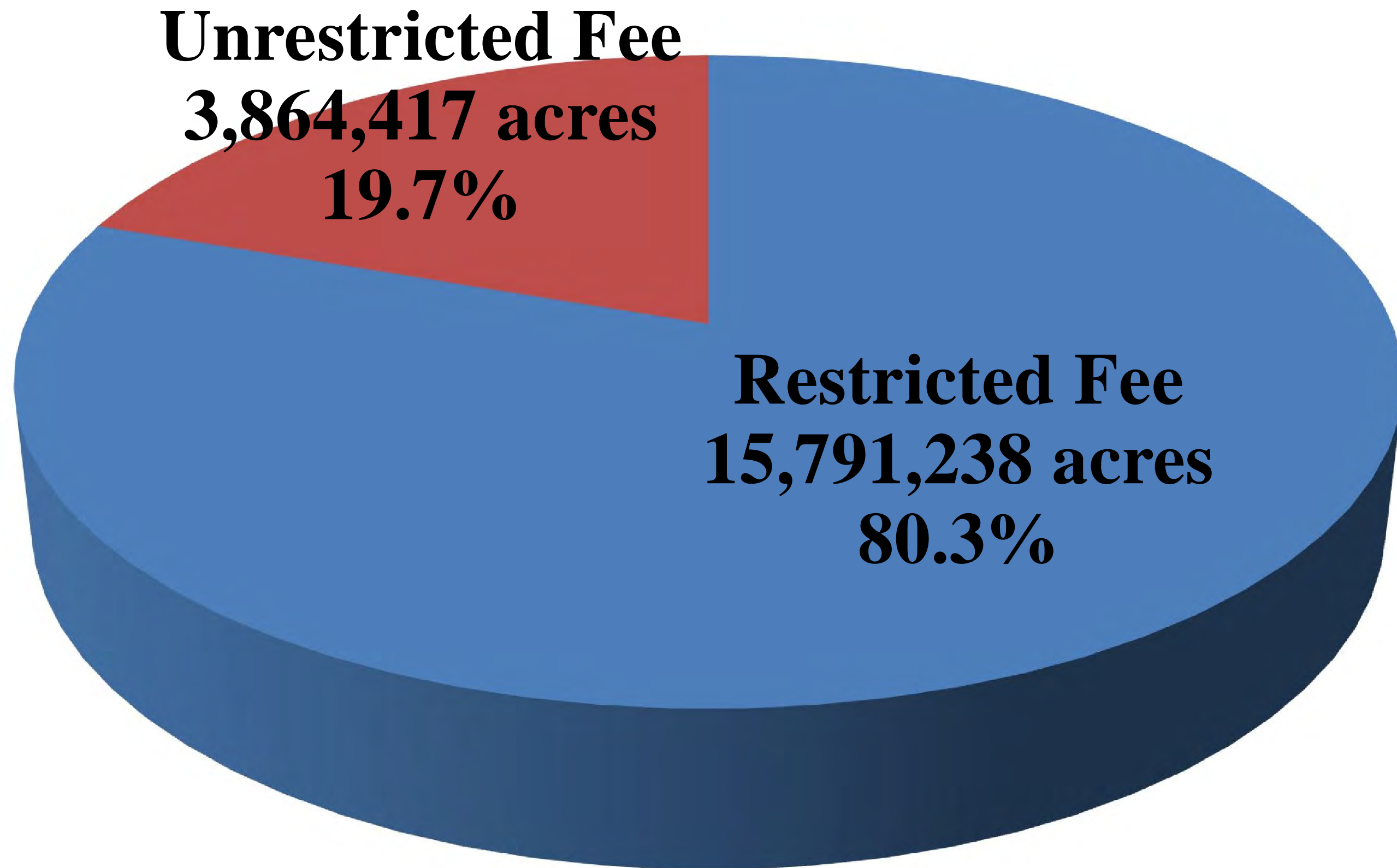
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- I. Map displaying total number of restricted fee and unrestricted fee acres within the jurisdiction of the Five Civilized Tribes in 1916.
2. Map displaying total number of restricted fee and unrestricted fee acres within the jurisdiction of the Five Civilized Tribes in 2015.
3. Resolution 15-19 adopted by the Inter-tribal Council of the Five Civilized Tribes on July 10th, 2015.

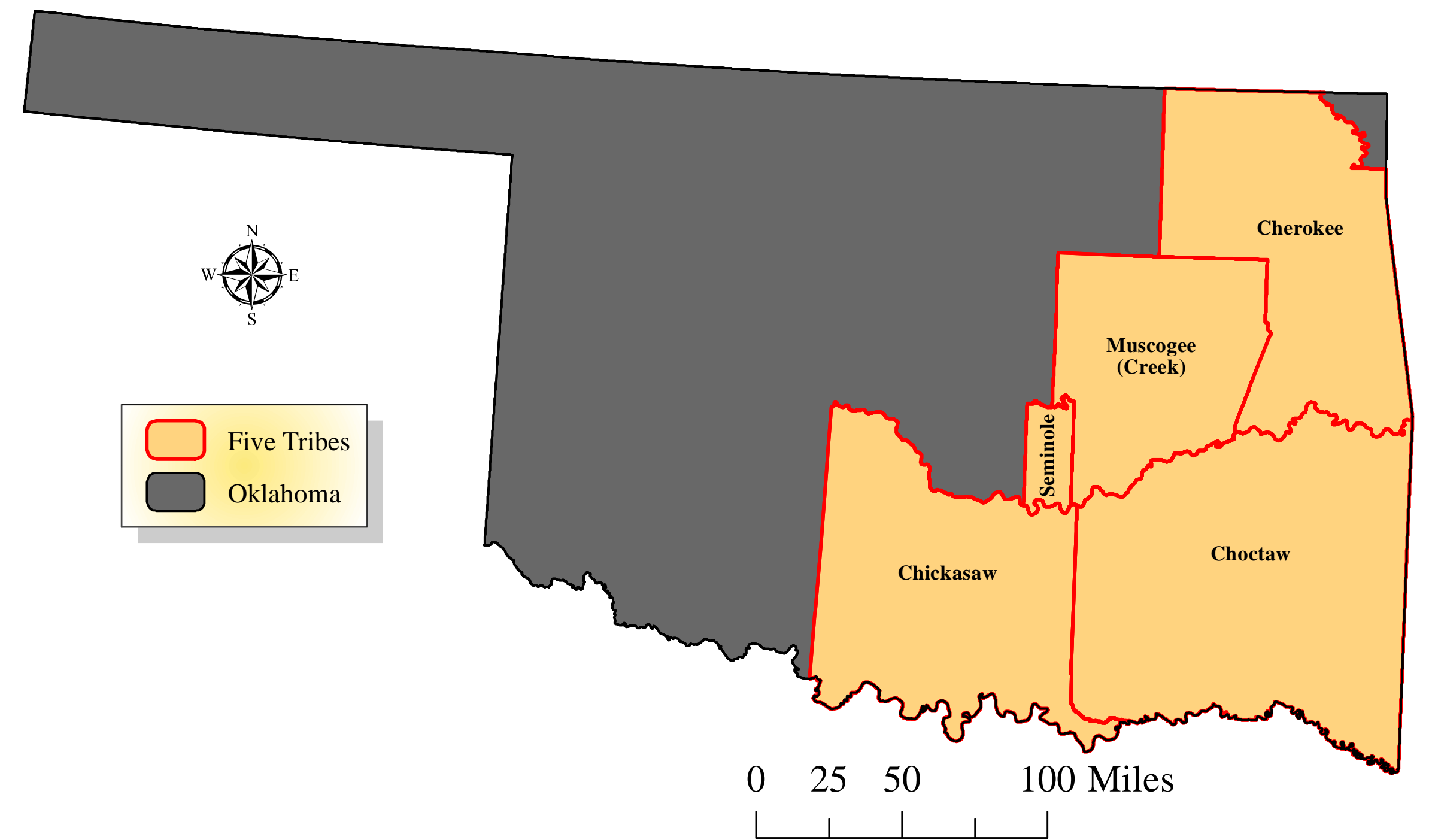


CHEROKEE NATION®

Five Civilized Tribes Restricted Land 1916



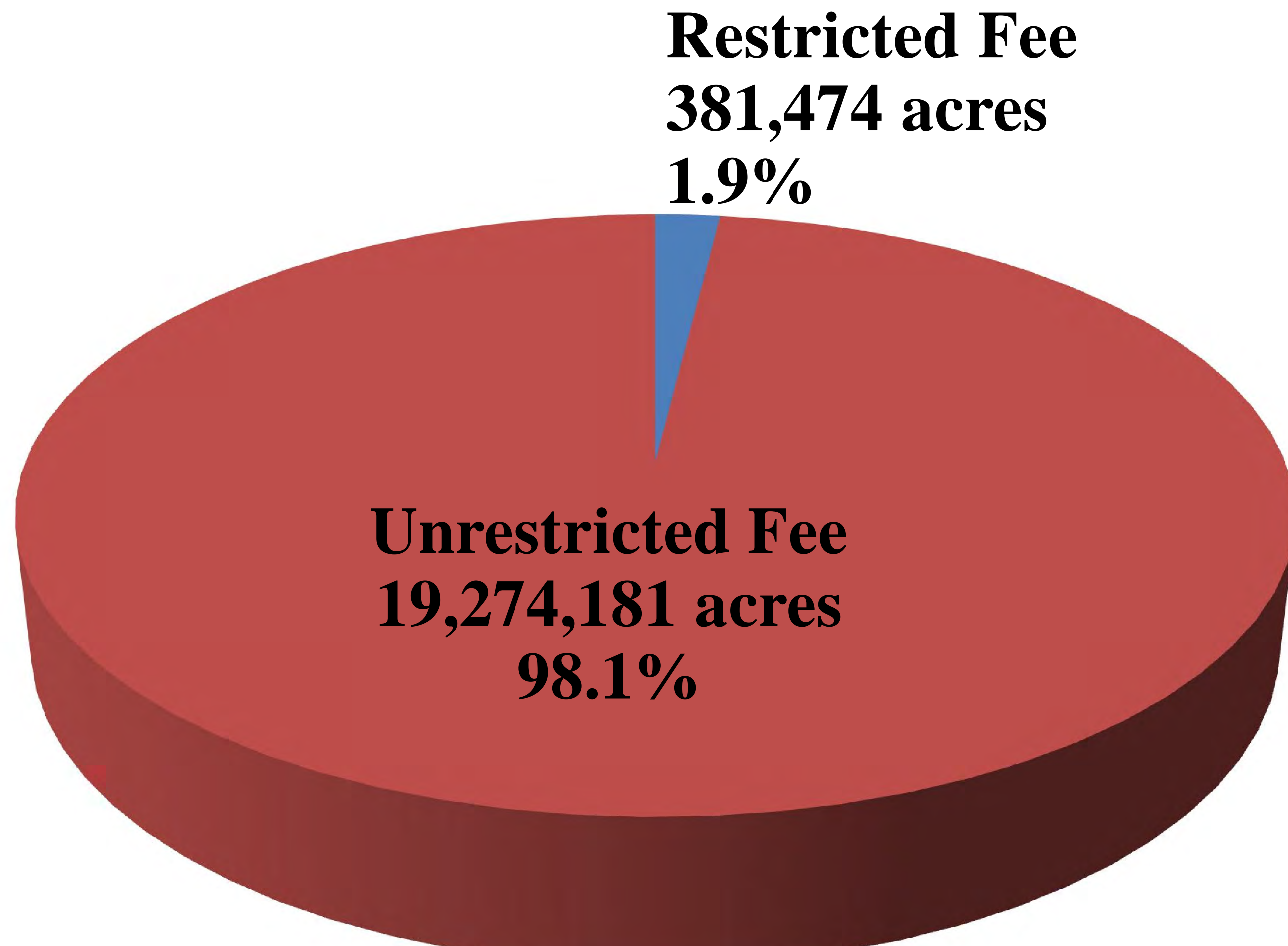
Percent of acres of restricted land vs. none restricted land acres.
 Total acres of combined five tribes jurisdictional area: 19,655,655
 Restricted land data from Bureau of Indian Affairs.
 Total acres of jurisdictional boundaries from Cherokee Nation.



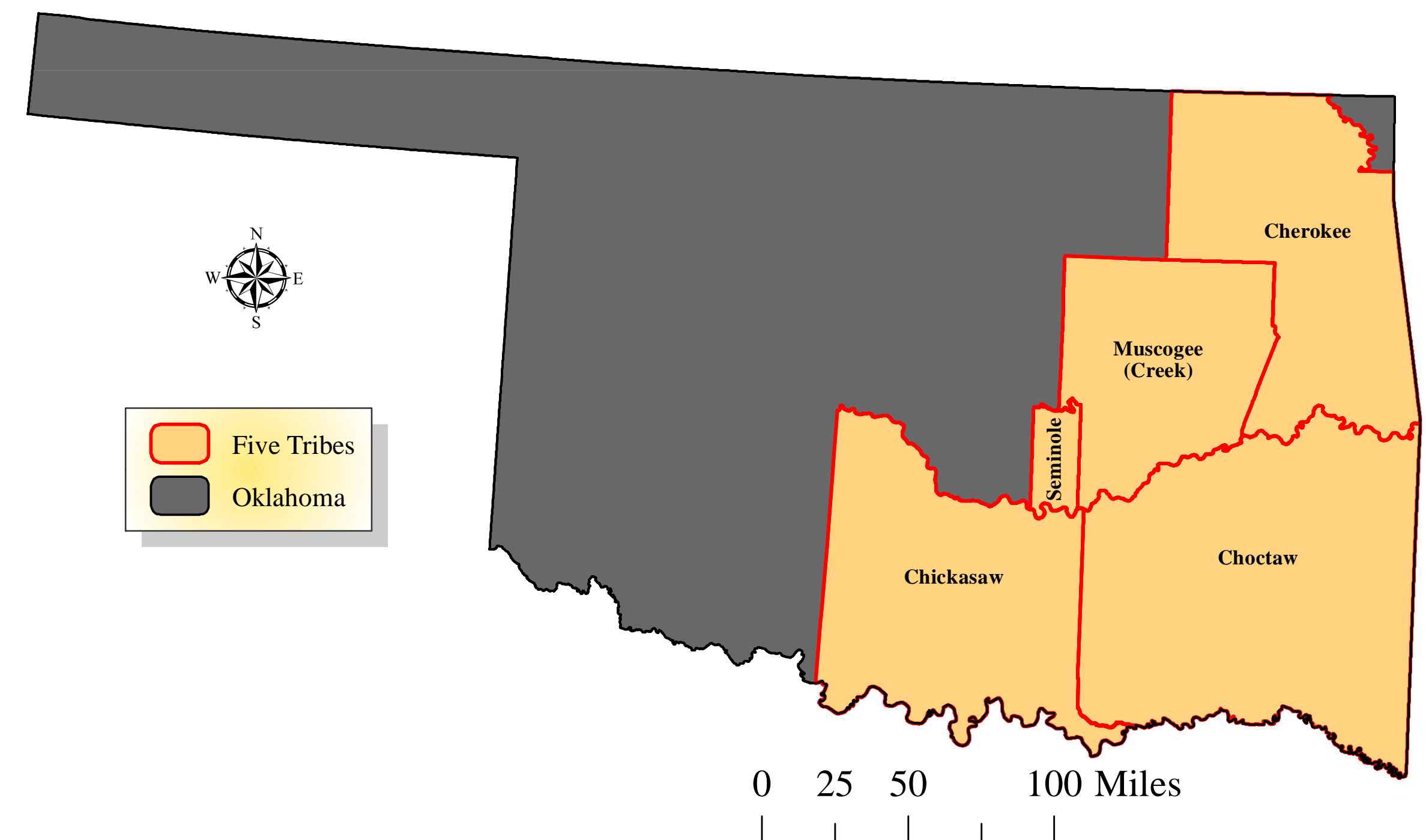


CHEROKEE NATION®

Five Civilized Tribes Restricted Land 2015



Percent of acres of restricted land vs. none restricted land acres.
Total acres of combined five tribes jurisdictional area: 19,655,655
Restricted land data from Bureau of Indian Affairs.
Total acres of jurisdictional boundaries from Cherokee Nation.



The INTER-TRIBAL COUNCIL of the FIVE CIVILIZED TRIBES



A Resolution Re-Affirming the position of the Five Civilized Tribes in opposition and communicating the discriminatory Acts of the United States Congress enacted on August 4, 1947; the effects of this Act still subject the members of the Five Civilized Tribes and Tribal Governments to the irreversible loss of land.

Resolution No. 15-19



WHEREAS, the Inter-Tribal Council of the Five Civilized Tribes (ITC) is an organization that unites the tribal governments of the Cherokee, Chickasaw, Choctaw, Muscogee (Creek), and Seminole nations, representing over 500,000 Indian people throughout the United States, and,



WHEREAS, the ITC recognizes the important role of maintaining their land base plays in the right to Self-Governance, administration of justice, protection of cultural and sacred sites, social and economic wellbeing of Indian communities, Tribal Governments, Individual members; and,



WHEREAS, the Act of August 4, 1947, commonly named the Stigler Act, was designed to systematically strip the Five Civilized Tribes of their land bases and began with the Individuals who received allotments, and,



WHEREAS, the State of Oklahoma is **not a Public Law 280 state and is forbidden in its own Constitution under Article 1 Section 3 from “the people of this state forever disclaim any interests in lands owned by a tribe, or lands owned by any Indian”**, and,

WHEREAS, the 47 Act is a Federal Mandate that forces the State of Oklahoma to act as instrumentalities of the Federal Government, yet no other groups of Indian Tribes are forced to have land title decisions made by any State of the Union, and,

WHEREAS, the Inter-Tribal Council of the Five Civilized Tribes adopted Resolution # 2013-36 which created the 47 Act Committee and charged the same with the responsibility of developing strategy and resolution to reform the 47 Act, and,

WHEREAS, the 47 Act Committee has met numerous times since its October 2013 charging orders; has now found resolution to reform the 47 Act and allow each tribe assurance that Restricted Indian Lands will not be lost due to blood quantum limits, and,

WHEREAS, the ITC finds that the one-half degree Indian Blood Quantum Requirement of the 1947 Act is discriminatory and imposes a higher

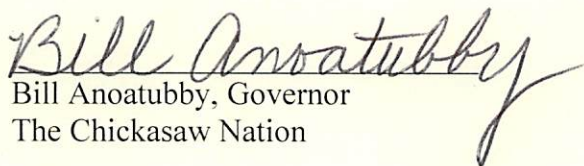
standard upon tribal members of the Five Civilized Tribes to keep the Restricted Indian Land title; therefore, the ITC has determined that joint efforts of the Five Civilized Tribes must be made to request Congressional action to remove the Blood Quantum Requirement from the 1947 Act., and,

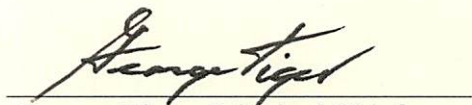
WHEREAS, the working group finds and recommends the attached information would begin reform of one of the most detrimental portions of the 47 Act, the committee recommends repeal of language that unjustly attacks and fails to protect the lands of members of the Five Civilized Tribes, and,


NOW THEREFORE BE IT RESOLVED, the Inter-Tribal Council of the Five Civilized Tribes requests that the Honorable Congressman Tom Cole, Honorable Congressman Markwayne Mullin and the Honorable Senator James Lankford support the recommended language and immediately begin the work reforming the 47 Act, and sponsor legislation in both the U.S. House of Representatives and the U.S. Senate to end the discriminatory taking of the lands of members of the Five Civilized Tribes.


CERTIFICATION


The foregoing resolution was adopted by the Inter-Tribal Council of the Five Civilized Tribes meeting in Norman, Oklahoma on this 10th day of July, 2015, by a vote of all for 0 against and 0 abstentions.


Bill Anoatubby, Governor
The Chickasaw Nation


George Tiger, Principal Chief
Muscogee (Creek) Nation


Gary Barton, Chief
Choctaw Nation of Oklahoma


Leonard M. Hatjo, Principal Chief
Seminole Nation of Oklahoma


Bill John Baker, Principal Chief
Cherokee Nation