**TESTIMONY OF**
**MIKE BLACK,**
**DIRECTOR OF THE BUREAU OF INDIAN AFFAIRS**
**UNITED STATES DEPARTMENT OF THE INTERIOR**
**BEFORE THE**
**HOUSE COMMITTEE ON NATURAL RESOURCES**
**SUBCOMMITTEE ON AMERICAN INDIAN AND ALASKA NATIVE AFFAIRS**
**ON H.R. 487,**
**A BILL TO ALLOW THE MIAMI TRIBE OF OKLAHOMA TO LEASE OR TRANSFER CERTAIN LANDS**

**JUNE 10, 2015**

Good morning Chairman Young, Ranking Member Ruiz, and members of the Subcommittee. Thank you for the opportunity to provide a statement on behalf of the Department of the Interior (Department) on H.R. 487, a bill to allow the Miami Tribe of Oklahoma to lease and transfer certain lands. The Department supports H.R. 487.

The Department is aware that the Miami Tribe of Oklahoma (Tribe) wishes to lease, sell, convey, warrant, or otherwise transfer all or any part of its interests in any real property that is *not* held in trust by the United States for the benefit of the Tribe without further approval, ratification, or authorization by the United States. As the language in the bill indicates, such lands do not include any lands held in trust by the United States for the benefit of the Tribe.

The Tribe is of the opinion that it cannot lease, sell, convey, warrant, or otherwise transfer all or any part of its interests in any real property *not* held in trust by the United States unless authorized by Congress. The Tribe cites federal law, 25 U.S.C. §177, which prohibits any "purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians."

H.R. 487 would expressly allow the Tribe to lease, sell, convey, warrant, or transfer all or any portion of the interest in *any real property not held in trust status* by the United States for the benefit of the Tribe. The legislation also clearly states that H.R. 487 does not authorize the Tribe to lease, sell, convey, warrant, or otherwise transfer all or any portion of any interest in *any real property that is held in trust by the United States for the benefit of the Tribe*. Given these clear lines, the Department supports H.R. 487.

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today. I am happy to answer any questions you may have.

**Statement for the Record**
**Department of the Interior**
**House Committee on Natural Resources**
**Subcommittee on Indian, Insular and Alaska Native Affairs**
**H.R. 2212 Land into Trust for the Susanville Indian Rancheria**
**June 10, 2015**

Thank you for the opportunity to testify on H.R. 2212 which would take approximately 300 acres located in Lassen County, California, into trust for the benefit of the Susanville Indian Rancheria (Rancheria). The Department of the Interior supports H.R. 2212.

## Background

The original 30 acres of the Rancheria were purchased by the Tribe in 1923 under the Landless and Homeless Act. Several other purchases and donations have been made since that time, bringing the total land base of the Rancheria to approximately 1,100 acres in trust status. The Rancheria has expressed interest in expanding their land base to include approximately 300 acres currently managed by the Bureau of Land Management (BLM) and located adjacent to the Upper Rancheria. The BLM understands that trust status for this land would enable the Tribe to construct housing and training facilities for tribal fire crews, and manage the lands for native plants used by the Tribe. These lands are currently identified for disposal under the Eagle Lake Field Office Resource Management Plan. Additionally, the BLM administers three rights-of-way for telecommunications, utility, and transportation uses on the lands proposed to be taken into trust.

## H.R. 2212

H.R. 2212 declares that approximately 300 acres of BLM-managed lands in Lassen County, California is to be taken into trust, along with improvement and appurtenances for the benefit of the Rancheria. This action would be subject to valid existing rights. Under the bill, class II and class III gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) would be prohibited on these lands.

The Department supports taking only the lands, less improvements and appurtenances, into trust for the Rancheria. The Department only takes lands into trust for the benefit of a tribe, here, the Rancheria.

The Department also notes that the map referenced in Section 1(b) of the bill is not dated. We welcome the opportunity, in cooperation with the bill's sponsor, to create a legislative map for the purposes of this bill and the BLM will develop a legal description for the purposes of transferring administrative jurisdiction. Finally, the Department would also like to work with the sponsor on minor technical corrections.

## Conclusion

Thank you for the opportunity to testify in support of this legislation which would provide important benefits to the Rancheria.

**Statement for the Record**
**Department of the Interior**
**House Committee on Natural Resources**
**Subcommittee on Indian, Insular and Alaska Native Affairs**
**H.R. 2387, Alaska Native Veterans Land Allotment Equity Act**
**June 10, 2015**

Thank you for the opportunity to provide the views of the Department of the Interior on H.R. 2387, the Alaska Native Veterans Land Allotment Equity Act. H.R. 2387 would make two amendments to the Alaska Native Claims Settlement Act (ANCSA), in an effort to provide access to lands for individual Alaska Natives who have not received lands under the Alaska Native Allotment Act, the Alaska Native Vietnam Veterans Allotment Act, and ANCSA.

## Background

The Alaska Native Allotment Act (1906 Act) was passed in May of 1906, and gave the Secretary of the Interior authority to convey up to 160 acres of non-mineral land to individual Alaska Natives. Over 10,000 Alaska Natives filed allotment applications.

The 1906 Allotment Act was repealed with the enactment of the ANCSA in 1971, but ANCSA contained a savings provision for individual allotment claims then pending before the Department. In 1981, the vast majority of the still-pending applications were legislatively approved by Section 905 of the Alaska National Interest Lands Conservation Act (ANILCA). There remain pending, as of the date of this hearing, approximately 280 applications under the 1906 Act, most of which will require the State of Alaska to voluntarily reconvey title to the United States government before a conveyance can be made to the individual allotment claimant.

The BLM has prioritized the completion of individual allotments, and to date has completed final patent to approximately 98 percent (over 13,100 parcels) of individual Native allotments.

With respect to State land transfers, the BLM has identified a much faster, more accurate, and more cost-effective way to fulfill the promise of land conveyances called for in the Alaska Statehood Act. Use of modern tools and techniques – current best available practices – would allow BLM to accomplish the remaining surveys and conveyances in a substantially shorter amount of time, while providing the State with higher quality data than was previously envisioned. As it saves time, this new approach has the potential to save hundreds of millions of dollars for the American taxpayer. The BLM has presented the State of Alaska with the opportunity to jointly adopt this new approach through an update to a 1973 Memorandum of Understanding on surveying and monumenting. The BLM is eagerly awaiting feedback from the State about its interest in jointly taking this step forward. In the absence of agreement, the BLM may need to consider withdrawing from the 1973 Memorandum in order to avoid spending substantial taxpayer funds on unnecessary and inefficient procedures. It is our sincere hope to jointly innovate in this area with the state of Alaska.

Because certain Alaska Native veterans of the Vietnam War may have missed an opportunity to apply for an allotment because they were serving in the U.S. armed forces immediately prior to

the 1971 repeal of the Allotment Act, the Alaska Native Vietnam Veterans Allotment Act (P.L. 105-276) was enacted in 1998 to redress any unfairness that may have resulted because of such military service. The 1998 Act authorized the Department to reopen Native allotment applications for an 18-month period ending in January 2002, for certain Alaska Native Vietnam War-era veterans who may have been prevented from filing timely applications in 1971 because they were on active military duty at the time.

Congress tightly restricted the time period for which applications were reopened in order to minimize effects on other pending applications, private property interests, and other government programs. During this time period, the BLM received applications from 740 individuals claiming a total of 1,070 parcels. Of these, about 70 percent did not meet the terms of the Act and were rejected. Certificates for 243 allotments have been issued, and just nine parcels remain pending. The Vietnam-era Veterans transfer program is nearly completed.

**H.R. 2387**

Provisions in H.R. 2387 affect two distinct groups of Alaska Natives seeking allotments of Federal land in Alaska under the authority of the 1906 Allotment Act. First, for a group of Alaska Natives whose applications: 1) were pending at the Department on the date of repeal for the 1906 Act; 2) were for allotments in the Tongass or Chugach National Forests; and 3) which claimed ancestral rather than personal use and occupancy, section 2 of H.R. 2387 would override the 1983 Ninth Circuit decision in *Shields v. United States*. The bill would reopen and legislatively approve any application for a Native allotment in lands withdrawn for the Tongass and Chugach National Forests that was pending at the Department on December 18, 1971, the date on which ANCSA repealed the 1906 Act.

The BLM expects that enactment of H.R. 2387 would require reopening and approval of over 1000 scattered new inholdings within the two National Forests. Implications of H.R. 2387 for lands already conveyed to Native Corporations under ANCSA are uncertain.

As to the second group of Alaska Natives seeking allotments, H.R. 2387 would allow any Alaska Native Vietnam War-era veteran who has not yet received a Native allotment to select up to 2 parcels of Federal land totaling no more than 160 acres, and an heir may apply for an allotment on behalf of the estate of a deceased veteran. Unlike the carefully defined restrictions of the 1998 Act, H.R. 2387 would allow Alaska Native veterans to select any vacant Federal land in the state of Alaska that is located outside of the TransAlaska Pipeline right-of-way, a unit of the National Park System, a National Preserve, or a National Monument. Thus, under H.R. 2387, available lands would include wildlife refuges, national forests, wilderness areas, acquired lands, national defense withdrawn lands, and lands selected by, or conveyed to, the State of Alaska or an Alaska Native Corporation.

The bill would authorize compensatory replacement selections from appropriate Federal land, as determined by the Secretary, as a replacement for land Native corporations may voluntarily reconvey for Native veteran allotments, and would require the Secretary to publish regulations within one year. A Native veteran (or heir) would have three years after the Secretary issues final regulations to file an allotment application. Even though potential applicants are given up

to four years to apply, all conveyances under H.R. 2387 are required to be completed by December 31, 2020, an unworkable deadline to complete reopening of applications, realty and survey activities

As the Department has testified previously on legislation that would similarly reopen the Alaska land entitlement process, H.R. 2387 would disrupt precedent under existing law and complicate settled land use arrangements under ANCSA and ANILCA, undermining the goals of the Alaska Land Transfer Acceleration Act to finalize land entitlements under ANCSA, the Statehood Act, and existing applications for individual Alaska Natives and Native veterans. In this particular case, the bill would also create inequities between Alaska Native Vietnam veterans and Alaska Natives and award land to those who did not serve in the military prior to the repeal of the Allotment Act.

The BLM's Alaska Land Conveyance program is now in a late stage of implementation and the Department strongly supports the equitable and expeditious completion of the remaining entitlements under ANCSA and other applicable authorities. However, H.R. 2387 raises a number of concerns. H.R. 2387 would re-open numerous land claims which the Department has worked hard to resolve, would allow broad selection of any vacant Federal land in the state of Alaska with few exceptions, would give rise to new issues of fairness to other Alaska Natives and other Vietnam-era veterans, and would disrupt settled land use arrangements under existing statutes. While the Department opposes this version of the bill, we would be willing to work with the Committee on this issue to address our shared priority of equitable treatment of Alaska Natives through the Alaska Land Conveyance program.

**Conclusion**

The title recovery provisions in this bill that amend ANCSA would delay the Department's goal of sunsetting the Alaska Land Transfer Program, which is in its final stages. The Department believes the completion of remaining entitlements under ANCSA and the Statehood Act is necessary to equitably resolve the remaining claims and fulfill an existing Congressional mandate.