

**SUPPLEMENTAL TESTIMONY
OF
DOUGLAS G. LANKFORD**

Chief of the Miami Tribe of Oklahoma
Before the
House Committee on Natural Resources
Subcommittee for Indigenous Peoples of the United States

July 25, 2019

Chairman Gallego and Honorable Members of the Subcommittee for Indigenous Peoples of the United States:

I write to supplement the testimony I submitted to the Subcommittee on July 16, 2019 in order to respond to the late-filed statement submitted by Darryl LaCounte, Director of the Bureau of Indian Affairs, on **H.R. 396**, a bill to provide for the equitable resolution of certain Indian land disputes regarding land in Illinois, and for other purposes. The Director suggests that the Subcommittee should delay the enactment of the bill and defer the relief that it will provide to the Tribe and to the residents of east central Illinois, because he believes that the United States may have a defense to the claim that the Tribe would bring before the Court of Federal Claims (CFC) if the bill is enacted.

The testimony is as unsurprising as it is disappointing and, ultimately, immaterial. I would like to briefly highlight two important points in response.

First, Director LaCounte's statement completely misses the fact that H.R. 396 does not ask Congress to consider and decide the Tribe's land claim. Instead, it grants the CFC—not this Subcommittee—the jurisdiction to decide once and for all the Tribe's claim to the Wabash watershed in Illinois. The Director's testimony does little more than suggest that the United States may have a legal defense to the Tribe's potential claim, which is precisely the kind of argument that the United States could assert to the CFC if H.R. 396 is enacted. That the potential defendant believes there may be a defense to the Tribe's claim is not surprising. But the existence or merits of such a defense is wholly immaterial to whether this bill should be enacted, and the Subcommittee should not delay action on the bill so that the Department can research defenses to a lawsuit that has not yet even been authorized. The Director's statement in opposition is a red herring, and the Subcommittee should decline his attempt to litigate the merits of the Tribe's claim before this Subcommittee.

Second, the Director's request for unnecessary delay to investigate legal defenses to an unasserted claim frustrates a core goal of the legislation – to provide relief to the current landowners of east central Illinois, whose title will remain clouded until the Tribe's claim is finally extinguished. H.R. 396 provides prompt and permanent relief by extinguishing the cloud

on title currently suffered by landowners, regardless of the outcome of the Tribe's litigation before the CFC.

In closing, the Tribe has thoroughly vetted its claim over many years, and there is nothing new or relevant in the Director's testimony. This is old news. The only surprise is that the Tribe's trustee so quickly removed its fiduciary hat to advocate against the Tribe's ability simply to have a full and fair hearing of its claim. Ultimately, the Director's testimony does nothing more than encourage unnecessary argument about matters that should be confined to the courtroom and unlimited delay for the relief that both the Tribe and Illinois landowners need. While those tactics appear to be mainstays of the Department, they are not needed here.

Thank you again for the opportunity to testify in support of HR 396.