

March 1, 2026

Honorable Bruce Westerman
Chairman
Committee on Natural Resources
United States House of Representative
Washington, D.C. 20515

Honorable Jared Huffman
Ranking Member
Committee on Natural Resources
United States House of Representative
Washington, D.C. 20515

**WRITTEN STATEMENT OF DANIEL G. STEELE
RETIRED U.S. DEPARTMENT OF JUSTICE TRIAL ATTORNEY**

My name is Daniel G. Steele, and I am a retired attorney. Beginning in 1978, I worked for 37 years as a trial attorney at the U.S. Department of Justice (DOJ). During most of my tenure at DOJ I represented the United States in cases brought by Indian tribes under the Indian Claims Commission Act, 60 Stat. 1049 (1946) ("ICCA" or "1946 Act") and in other kinds of litigation involving Native American matters.

Your Committee is considering a bill, H.R. 2827, that, if enacted into law, would allow the Miami Tribe of Oklahoma to prosecute claims that accrued "historically," prior to 1947, and grant the United States Court of Federal Claims jurisdiction to hear its case. I would like to share with the Committee how DOJ responded to similar proposals during my tenure there and my institutional knowledge of the longstanding practice of the DOJ to oppose these types of proposals. I provide this statement on my own behalf and ask that you include it in the Committee's hearing record.

Section 12 of the ICCA states: "The Commission shall receive claims for a period of five years after the date of the approval of this Act and no claim existing before such date but not presented within such period may thereafter be submitted to any court or administrative agency for consideration, nor will such claim thereafter be entertained by the Congress." Further, Section 2 of the ICCA explicitly limited the Commission's jurisdiction to "historical" claims: "No claim accruing after the date of the approval of this Act shall be considered by the Commission."

Congress' intent in enacting the ICCA was "remedial" – to address historical wrongs, not previously compensated for, to tribes, bands, or identifiable groups of Native Americans within the scope of the Commission's jurisdiction specified in Section 2 of the Act.

Section 2 of the ICCA explicitly states that the Act's creation of the Indian Claims Commission "shall receive claims for a period of five years after the date of the approval of this Act and no claim existing before such date but not presented within such period may not thereafter be submitted to any court or administrative agency for consideration, nor will such claims thereafter be entertained by the Congress." The ICCA was enacted on August 13, 1946. Thus, such claims subject to the ICCA's jurisdiction presented after August 13, 1951 (five years) were/are time barred.

Beginning in 1982, I worked in DOJ's Indian Claims Section, which was responsible for representing the United States in cases authorized under the ICCA. My colleagues and I were charged with the responsibility of bringing the ICCA docket of remaining cases, then between 30-36 years old, to a conclusion. On behalf of the many attorneys whose work I followed and learned from, in tribute to them, I am proud to state that it was my great honor as Attorney of Record in Pueblo of San Idelfonso v. United States, Docket No. 354 (Ct. Fed. Cl.), to settle that case, the very last case docketed under ICCA

jurisdiction through compromise and settlement on June 7, 2005—59 years after the ICCA's enactment. Pursuant thereto, Congress enacted the Pueblo de San Ildefonso Claims Settlement Act, September 27, 2006, 25 U.S.C. 1780, *et. seq.*

In addition to litigation responsibilities in the Indian Claims Section, I would review proposed legislation forwarded to DOJ from congressional committees for review and comment. Occasionally, a bill would fall within the ambit of what was the ICCA's exclusive jurisdiction, as does H.R. 2827, which would resurrect certain claims now clearly time barred by the express language of the 1946 Act, discussed above.

DOJ's written responses to Congress to such bills consistently opposed passage. DOJ always reminded the committees that Congress had already passed remedial legislation, the ICCA, to hear such cases "against the United States on behalf of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska" and that the ICCA's creation of the Indian Claims Commission stated it "shall receive claims for a period of five years after the date of the approval of this Act and no claim existing before such date but not presented within such period may not thereafter be submitted to any court or administrative agency for consideration, nor will such claims thereafter be entertained by the Congress."

DOJ would also remind Congress that Congress's original and express intent in enacting the ICCA was to set a statute of limitations for such historical claims and that any such claims presented after August 13, 1951, were and are time barred.

I am compelled to point out the tremendous amount of capital expenditures and attorney time required for the United States government to defend these kinds of "historic" Native American claims – especially in times of government austerity with budget and hiring constraints. Because H.R. 2827 is not constrained by any limitations time period, the factual predicate of any claims filed by the Miami Tribe can easily go back hundreds of years. Many of my ICCA cases implicated time periods going back to the 1870s and 1880s to address the "damages" phase of claims alone. That, of course, required hiring experts in diverse fields of expertise. I typically had to retain historians, anthropologists, geologists, land appraisers, land surveyors, and economists in numerous fields. The resulting expert reports and supporting exhibits were extensive, often extremely detailed, and took long periods of time to prepare. The resulting bills/expenditures from these experts for services rendered was eye popping.

Some of my cases consisted of claims on lands which prior Commission awards had been paid – duplicative claims that resulted in duplicative awards. And that unfairness occurred within the jurisdictional boundary of only one law, the ICCA. Given the passage of time and the loss of institutional memory of what has gone before, it seems to me that if H.R. 2827 is enacted into law, it may foster further unfairness but will certainly frustrate the importance of congressionally imposed statutes of limitation. I submit that the policy reasons for statutes of limitation in our system of justice are absolutely essential to protect fairness and legitimacy of process and the very integrity of our entire legal system.

The complex litigation of the ICCA docket required DOJ to create the Indian Claims Section in 1953. The Section existed until its merger with the General Litigation Section in 1986, representing thirty-three years of full-time defensive litigation work to meet the mandate of the ICCA. That was supposed to have been the justice system's full and final response and resolution to address this Nation's historical wrongs suffered by Native Americans on their homelands. In my view, there is no sound policy reason for Congress to enact H.R. 2827.

I hope my institutional perspective will be helpful to the Committee membership.

Respectfully,



Daniel G. Steele

Phone: (603) 379-9901

Email: daniel.steele.net@gmail.com