TESTIMONY

OF

DOUGLAS G. LANKFORD

Chief of the Miami Tribe of Oklahoma

Before the

House Committee on Natural Resources

Subcommittee for Indian and Insular Affairs of the United States

Wednesday, March 4, 2026

1324 Longworth House Office Building

Legislative Hearing on **H.R. 2827** (Rep. Tom Cole), to provide for the equitable resolution of certain Indian land disputes regarding land in Illinois, and for other purposes.

CHAIRMAN HURD and Honorable Members of the Subcommittee:

Aya akima eecipoonkwia weenswiaani niila myaamia. My name is Douglas Lankford, and I am the Chief of the Miami Tribe of Oklahoma. I want to thank the Subcommittee for this opportunity to testify in support of H.R. 2827, a Bill that would permanently resolve the Tribe's treaty-based land claim to the Wabash River Watershed in east-central Illinois and permanently resolve the cloud it creates on title held by landowners in east-central Illinois.

The Bill accomplishes this by doing two things:

1) First, it grants the United States Court of Federal Claims (CFC) jurisdiction to decide whether the United States took lands that were protected by the 1805 Treaty of Grouseland without paying the Tribe; and

2) Second, it extinguishes the Tribe's claim to those lands, which forever eliminates the cloud on title for landowners.

The Miami Tribe of Oklahoma is a federally recognized Indian tribe. Our ancestral homelands are located south of the Great Lakes, in what are now the states of Indiana, Illinois, and Ohio. In 1846, the Tribe was removed from its homelands to what is now the state of Kansas, and in 1867 was again removed from Kansas to the Indian Territory, now the State of Oklahoma. Our seat of government is located in Ottawa County in Northeast Oklahoma.

In 1805, the Miami Tribe and its historical constituents Eel River Band and the Wea, signed the Treaty of Grouseland with the United States (Appendix 1). Article 4 of that Treaty made it clear that the Tribe reserved lands in the Wabash River watershed, and the United States agreed that it would not take any part of that reserved land without the consent of each of the Miami, Eel River, and Wea tribes. Thereafter, the United States entered several treaties ceding land in the Wabash River Watershed that secured the approval of all three Bands. However, it never secured cession from any of the three Bands of the Tribe to nearly 2.6 million acres within the reserved area, nor did it pay the Tribe for that land. Yet, over time, the United States transferred it to non-Indians.

The Miami Tribe of Oklahoma is the sole contemporary tribal body politic with a treaty title claim under Article IV of the Treaty of Grouseland. As explained below, the Eel River Miami have for over a century been a part of the Miami Tribe of Oklahoma. The Wea, now a part of the Peoria Tribe, ceded their 1/3 interest in the reserved land in 1818 (Appendix 2).

Because the recognized title granted to the Tribe under the Treaty of Grouseland is central to its claim, a brief history surrounding that Treaty is useful. Historically, the Miami Indian confederacy consisted of a major group of people located in the Native diaspora that existed just south of the central Great Lakes when the French penetrated the lakes in the 1620s. Within the confederacy, the three bands that consistently intermarried and forged a clear alliance as a "tribe" were the Miami Proper, the Eel River Miami, and the Wea.

Throughout the Eighteenth Century, the Miami confederacy came into increasing contact with fur traders at trading posts established throughout the region. In defense of its territory and people, the Miami Tribe, led by Chief Little Turtle, and the Shawnee, led by Blue Jacket, coordinated a pan tribal alliance that fought and won several battles against the United States, including Harmar's Defeat in 1790 and St. Clair's Defeat in 1791. Those military losses caused the United States, over the ensuing years, to fund, employ, and equip an expanded force and placed them

under the leadership of General Anthony Wayne, who set out to defeat the tribal alliance. The penultimate battle occurred near Toledo, Ohio, where tribal forces were defeated at the Battle of Fallen Timbers in 1794. Following that loss, the tribes petitioned for a peace treaty, resulting in the 1795 Treaty of Greenville, ending a decade of war and establishing a new era of peace between the Ohio River Tribes and the United States. Notably, the Greenville Treaty identified territories claimed by each of the treating tribes and, with respect to the Miami claim to the Wabash Watershed and other territory, constituted a treaty creating recognized title in the Tribe.

In the ensuing years, treaty land cessions by Ohio River tribes, including the Miami, occurred at a dizzying pace. In 1801, the federal government sent a territorial governor, William Henry Harrison, known as "Mr. Jefferson's Hammer," to administer the region occupied by the Miami confederacy. The encroachment of non-Indians on Indian lands generated tensions and made clear the need for the United States to negotiate Indian treaties and purchase land. Harrison established operations out of Vincennes, Indiana and, from 1802 to 1804, negotiated a series of land cession treaties with various tribes,[1] including a series of 1804 treaties that cleared a path for non-Indian occupation along the north bank of the Ohio all the way to the Mississippi River.[2] The Miami disputed many of the agreements, arguing that they had a rightful claim to large swaths of the lands ceded.

The mess caused by Harrison's approach and the resulting treaties set the stage for the Treaty of Grouseland. On August 21, 1805, the three Miami bands ceded a small strip of land in present-day southern Indiana. In exchange for this cession, the Miami demanded and received acknowledgement of ownership to the vast regions of the Wabash River watershed, some of this land being west of the Wabash River in present-day Illinois.[3] Because of Harrison's past practice of attempting to negotiate cessions from more "cooperative" tribes regardless of their title to the land, and the mess he had made in the 1802-1804 treaties, the Miami, Eel River, and Wea insisted on the reservation of land as joint owners with an undivided interest in the whole,[4] and further secured the United States' express agreement to "not

---

[1] *See* Treaty with the Delawares, Etc., June 7, 1803 (7 Stat. 74); Treaty with the Eel River, Etc., Aug. 7, 1803 (7 Stat. 77).

[2] *See* Treaty with the Delawares, Aug. 18, 1804 (7 Stat. 81); Treaty with the Piankeshaw, Aug. 27, 1804 (7 Stat. 83).

[3] Treaty of Grouseland, Aug. 21, 1805, 7 Stat. 91.

[4] *Id.* at art. IV.

purchase any part of the said country without the consent of *each* of the said [three] tribes."[5]

The Greenville Treaty and Article IV of the Grouseland Treaty vested the Miami, Eel River, and Weas with *treaty-recognized title* to lands on the Wabash and its waters above the Vincennes, including the area in Illinois subject to the Tribe's claim under H.R. 2827.[6] Because the Tribe held treaty recognized title, the United States was thereafter required to provide compensation to the Tribe under the Fifth Amendment of the United States Constitution if that title was subsequently taken.[7] The Tribe's treaty recognized title is in contrast to "original Indian title," which is based solely on aboriginal occupancy and use,[8] and which can be taken by the United States without compensation because it—unlike treaty recognized title—does not constitute "property" within the meaning of the Fifth Amendment.[9]

Between 1805 and 1840, the Tribe's lands came under increasing pressure from white settlers and the federal government, and the Tribe ultimately ceded most of its lands reserved under the Treaty of Grouseland through a series of subsequent treaties.[10] However, the Tribe never ceded or otherwise relinquished title to a 2.6

---

[5] *Id.* (emphasis added).

[6] *United States v. Kickapoo Tribe of Kansas*, 174 Ct. Cl. 550, 554 (Ct. Cl. 1966) (holding that Article IV of the Treaty of Grouseland "plainly recognizes title to and ownership of the designated lands").

[7] *United States v. Sioux Nation*, 448 U.S. 371, 408 (1980) (explaining that Congressional power over tribal lands "does not extend so far as to enable the Government to give the tribal lands to others, or to appropriate them to its own purposes, without rendering, or assuming an obligation to render, just compensation" (internal quotation marks omitted)); *Tee Hit-Ton v. United States*, 348 U.S. 272, 277-78 (1955) (explaining that although Congress has no constitutional obligation to compensate tribes for the taking of land held under original Indian title, "[w]here the Congress by treaty or other agreement has declared that thereafter Indians were to hold the lands permanently, compensation must be paid for subsequent taking").

[8] *Tee Hit-Ton*, 348 U.S. at 279.

[9] *Id.* at 285 (stating that "the taking by the United States of unrecognized Indian title is not compensable under the Fifth Amendment").

[10] Treaty of September 30, 1809 (7 Stat. 13); Treaty of September 30, 1809 (7 Stat. 115); Treaty of October 6, 1818 (7 Stat. 189); Treaty of October 23, 1826 (7 Stat. 300); Treaty of February 11, 1828 (7 Stat. 309); October 23, 1834 (7 Stat. 458, 463); Treaty of November 6, 1838 (7 Stat. 569); Treaty of November 28, 1840 (7 Stat.

million-acre area located in present-day east central Illinois that is the subject of H.R. 2827.

In 1821, and despite lacking title, the United States, through the Illinois Land Office, began selling parcels of land within the Tribe's unceded territory to white settlers until settlers fully occupied the area with United States land patents in hand. The United States did not seek or obtain consent of the Miami before making these sales in violation of Article IV of the Treaty of Grouseland, and the United States has never compensated the Tribe for taking its land.

Because of the Tribe's treaty protected title to the land, the United States did not transfer good title, and its actions gave rise for a claim for a treaty taking by the Tribe. This in turn created a cloud on title to the treaty protected land. Through no fault of their own, and despite having worked the land for generations, the landowners in the reserved area have a cloud on their title.

In 2000, the Tribe initiated a claim to title to the reserved land.[11] This created the cloud on title a matter of public record; the cloud that the Treaty itself created on title to that land. That litigation remains unresolved as the Tribe withdrew the case after considering the potential impact on the innocent land owners of east central Illinois and determining that 1) it did not wish to visit on them the kind of dispossession that occurred to the Tribe throughout the 19th Century; and 2) the real party in interest – the one who passed off title to land it had not purchased – was the United States.

This alternate solution was the subject of HR 791 (Johnson, IL), and S 533 (Durbin, IL), introduced by the Illinois delegation in the 107th Congress, and upon which HR 2827 is based. H.R. 791, like HR 2827, garnered strong bipartisan support from members of the Committee on Resources. Specifically, Congressman Phelps stated:

> I am in support of Congressman Johnson's legislation, H.R. 791, and I commend him for his leadership on this issue, *which will place this issue's accountability where it belongs, with the Federal Government.*

---

582). Many of these were signed under coercion, and the last was signed in 1840 shortly before the Tribe was forcibly removed by the United States to Kansas in 1846.

[11] Doc. 1 (6/02/2000) *Miami Tribe of Oklahoma v. Walden, et al.*, Case No. 4:00-cv-041420-JPG.

> This is not a question of who is right and who is wrong, the Miami Tribe or the landowners. This is a question of who is going to take responsibility.[12]

Many others echoed Congressman Phelps' support, acknowledging that the Tribe should be given the opportunity to right serious historic wrongs, the responsibility for which, if proven, would fall on the United States and not the landowners of Illinois. For example, Congressman Timothy Johnson, the sponsor of H.R. 791, clarified that the legislation "enjoyed widespread support" and expressed that, while H.R. 791 (like H.R. 396) *did not* render a judgment on the merits of the Tribe's claim, "there is no question there have certainly been examples throughout history of wrongs committed on Native Americans."[13] Similarly, Speaker Dennis Hastert referred to H.R. 791 as "commonsense legislation" and stressed that the merits of the Tribe's claim based on the Treaty of Grouseland "can and should be made by experts."[14] Likewise, Congressman John Shimkus, whose district currently includes the lands subject to the Tribe's claim, described H.R. 791 as "straightforward and fair to both sides."[15]

As my predecessor Chiefs and I have indicated in past testimony, and in meetings with many members of Congress, the Tribe has remained committed to working with Congress to secure a legislative solution to the title issue, consistent with the thinking that created H.R. 791, but limited to Miami interests only.[16] The Tribe proposed the language of H.R. 2827, and its predecessors, out of respect for the same commonsense and equitable approach of H.R. 791, and in light of the broad

---

[12] *Legislative Hearing on H.R. 521 and H.R. 791 Before the Committee on Resources, U.S. House of Representatives*, 107th Cong. 7 (2002), *available at*: https://www.govinfo.gov/content/pkg/CHRG-107hhrg79494/pdf/CHRG-107hhrg79494.pdf (prepared statement of Congressman David Phelps) (emphasis added).

[13] *Id.* at 3 (testimony of Congressman Timothy V. Johnson).

[14] *Id.* at 79 (prepared statement of Congressman J. Dennis Hastert, Speaker of the U.S. House of Representatives).

[15] *Id.* at 5 (prepared statement of Congressman John Shimkus).

[16] *Id.* at 127 (prepared statement of Chief Floyd E. Leonard of the Miami Tribe of Oklahoma) (stating that "fair and reasonable" federal legislation is the most appropriate vehicle for an expeditious resolution of the recognized treaty title claims of the Miami Tribe of Oklahoma to land, and related rights and interests, in the State of Illinois). Chief Leonard became ill and passed several years later, not having seen his goal of a legislative resolution of the Illinois land claim achieved.

support that it enjoyed in the House. And H.R. 2827, like H.R. 791, leaves the decision on the merits of the Tribe's claim where it belongs: with the Court of Federal Claims ("CFC"). And to be clear, HR 2827 would provide relief to the landowners of east central Illinois by extinguishing the Tribe's title claim and the cloud on title resulting from the Tribe's unresolved claim, which would occur upon passage of the legislation and does not depend on the Tribe's success in that litigation. The Tribe would remain responsible for proving its claim before the Court.

Legislation done the right way should be based on a ground-up effort, which is what the Tribe has done with respect to H.R. 2827. First, the Tribe began at the local level, visiting local and state officials to discuss the Tribe's proposed approach to determine if it addressed their needs and concerns.

The Tribe then looked at the past legislation, including HR 791 and S 533, as well as the ancestor legislation to those bills, Pub Law 97-385, 96 Stat. 1944 (Cherokee Nation), Pub L. 96-405, 94 Stat. 1713 (Blackfeet and Gros Ventre); Pub. L 96-404, 94 Stat. 1711 (Three Affiliated Tribes); and Pub L 96-251, 94 Stat. 372 (Cow Creek Band), and worked with legislative staff, local officials, and other interested parties to develop draft legislation that worked for everyone. The Tribe then reached out to Congressman Shimkus, the Congressman whose district nearly overlaps the Treaty-reserved area[17] to determine what further steps would be appropriate and, as a result of that consultation, the Tribe reached out to the Illinois Farm Bureau which expressed its support for the legislation. See, e.g. the Tribe and the IFB joint statement (Appendix 3) regarding the legislation that became HR 396, now HR 2827.

As a result of hard work, and meaningful consultation with crucial stakeholders, H.R. 2827 is common sense, straight forward, mutually beneficial legislation that has enjoyed broad bipartisan support. It is important for the Committee also to note that H.R. 2827 *does not* set new precedent or plow new ground. Rather, it is based on the language of past Acts of Congress that provided precisely the relief proposed in H.R. 2827. Yes, the Congress has done this before. Four statutes passed by Congress provide access to Tribes to assert treaty takings claims to the Court of Federal Claims. Like H.R. 2827, those laws authorize the Court of Federal Claims to "hear, determine, and render judgment on" the tribes' claims filed within a fixed window of time from the date of the Act. Like H.R. 2827, the Blackfeet, Cherokee, and Three Affiliated Tribes had a window one year from

[17] Now Congresswoman Miller's District.

the date of the Act. Cow Creek was given a five-year window. And like H.R. 2827, the Acts provide access notwithstanding statute of limitations or other defenses based on "lapse of time, "statutes of limitations, or defense of res judicata or collateral estoppel, or any other provision of law…"

The goal and precise language of H.R. 2827 are based on language that Congress shaped and passed several times. The only difference between H.R. 2827 and the earlier Acts is that those Acts did not provide the mutual benefit that H.R. 2827 does. Those Acts granted access to the CFC without any waiver of land claim or resolution of clouded title. H.R. 2827 seeks a resolution that provides for mutual benefit: the statutory extinguishment of the Tribe's land claim, and in exchange, that clears title to land in Illinois. The Tribe has no desire to see the current landowners dispossessed as the Tribe was, and so the Bill would extinguish the cloud on title created by the Tribe's land claim in exchange for a one-year window for the Tribe to bring its case before the United States Court of Federal Claims. To be clear, the extinguishment of the cloud on title—and the Tribe's claim—occurs upon passage of the legislation and does not depend on the Tribe's success in that litigation. The Tribe would remain responsible for proving its claim before the Court.

Finally, it is important to note that in this time of tight budgets at home, in the states, and here in DC, H.R. 2827 is not a land claim settlement bill. Neither is it an appropriation bill. It does not pass on the merits of claims or defenses that might be brought, and does not declare any winners, except for the landowners in the reserve area. The Tribe would still have to make its case and win. And, if the Tribe wins and a recovery is ordered, the United States would pay the judgment from the federal Judgment Fund that Congress has already appropriated. So, the CBO does not have to score it, and it would not be an "earmark."

Mihši neewe. Thank you, Mr. Chairman, and to the Committee members for their time and the opportunity to testify in support of the Bill; and a special thank you to Congressman Mullin for his leadership and assistance on this Bill.

I am happy to answer any questions that the Committee may have.