

TESTIMONY
OF
DOUGLAS G. LANKFORD

Before the

House Committee on Natural Resources

Subcommittee for Indigenous Peoples of the United States

Tuesday, July 16, 2019 at 2:00 p.m.

1334 Longworth House Office Building

Legislative Hearing on **H.R. 396** (Rep. Markwayne Mullin), to provide for the equitable resolution of certain Indian land disputes regarding land in Illinois, and for other purposes.

CHAIRMAN GALLEGO 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. 396, 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 gives the United States Court of Federal Claims (CFC) the authority 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 Wea signed the Treaty of Grouseland with the United States (Appendix 1). Article 4 of that Treaty made it clear that the Tribe HAD NOT ceded lands in the Wabash River watershed (Appendix 2, pp. 1-2), and the United States agreed that it would not take any part of that watershed without the consent of EACH of the tribes (Appendix 1, p. 2). The United States never asked the Tribe for that treaty-protected land. The Tribe never allowed the United States to take that treaty-protected land, and the United States never negotiated with or paid the Tribe for that land. Yet, over time, the United States placed the land in the public domain and transferred it to settlers.

HR 396 extinguishes 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 CFC.

Extinguishment of the claim and the cloud on title DOES NOT depend on the Tribe's success in that litigation. The claim is extinguished and title cleared regardless of the result of CFC litigation.

The Tribe has worked closely and diligently with the Congressional Leadership from Illinois, with local leaders from Illinois, especially those in the affected treaty area, and with the Illinois Farm Bureau to develop a Bill that will resolve, once and for all, this claim and its effect on title.

The solution in HR 396 is based on the solution presented in 2001 by the Illinois Delegation in HR 791 (Appendix 3) and S 533 (Appendix 4). Those Bills were referred to Committee but did not make it to floor votes, expired with the end of that Congress, and were not reintroduced. The solution proposed by the Illinois delegation made sense then and it makes sense now.

Finally, I think it is important to note in this time of tight budgets at home, in the states and here in DC, HR 396 is not a land claim settlement bill. It does not authorize any payment to the Tribe. All it does is gives us our day in court. We still have to make our case and win it. And if we win it, the United States will pay the judgment from the federal Judgment Fund that Congress has already appropriated money for. So, if we get a judgement, Congress does not have to appropriate new money for it, the CBO does not have to score it, and it wouldn't be an "earmark."

The solution makes sense because it addresses both the current and historic landowners' needs at the same time. The current landowners' title is cleared. And the people of the Miami Tribe get their day in court.

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.

INDIAN AFFAIRS: LAWS AND TREATIES

Vol. II, Treaties

Compiled and edited by Charles J. Kappler. Washington : Government Printing Office, 1904.

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TREATY WITH THE DELAWARES, ETC., 1805.

Aug. 21, 1805. | 7 Stat., 91. | Proclamation, Apr. 24. 1806.

Page Images: [80](#) | [81](#) | [82](#)

Margin Notes
Delawares relinquish their claim.
Cession of the Miamies, etc.
An additional permanent annuity to be given to the Miamies, etc.
Miamies, etc., determine not to part with any of their territory without the consent of all parties.
Potawatomies, etc., acknowledge the right of the Delawares to sell, etc.
Annuities, how to be paid.
Treaty, when to take effect.

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A treaty between the United States of America, and the tribes of Indians called the Delawares, Pottawatimies, Miamies, Eel River, and Weas.

ARTICLES of a treaty made and entered into, at Grouseland, near Vincennes, in the Indiana territory, by and between William Henry Harrison, governor of said territory, superintendent of Indian affairs, and commissioner plenipotentiary of the United States, for treating with the north western tribes of Indians, of the one part, and the tribes of Indians called the Delawares, Putawatimis, Miamis, Eel River, and Weas, jointly and severally by their chiefs and head men, of the other part.

ARTICLE 1.

[Appendix 1](#)

Whereas, by the fourth article of a treaty made between the United States and the Delaware tribe, on the eighteenth day of August, eighteen hundred and four, the said United States engaged to consider the said Delewares as the proprietors of all that tract of country which is bounded by the White river on the north, the Ohio and Clark's grant on the south, the general boundary line running from the mouth of Kentucky river on the east, and the tract ceded by the treaty of fort Wayne, and the road leading to Clark's grant on the west and south west. And whereas, the Maimi tribes, from whom the Delewares derived their claim, contend that in their cession of said tract to the Delewares, it was never their intention to convey to them the right of the soil, but to suffer them to occupy it as long as they thought proper, the said Delewares have, for the sake of peace and good neighborhood, determined to relinquish their claim to the said tract, and do by these presents release the United States from the guarantee made in the before-mentioned article of the treaty of August, eighteen hundred and four.

ARTICLE 2.

The said Maimi, Eel River, and Wea tribes, cede and relinquish to the United States forever, all that tract of country which lies to the south of a line to be drawn from the north east corner of the tract ceded by the treaty of fort Wayne, so as to strike the general

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boundary line, running from a point opposite to the mouth of the Kentucky river, to fort Recovery, at the distance of fifty miles from its commencement on the Ohio river.

ARTICLE 3.

In consideration of the cession made in the preceding article, the United States will give an additional permanent annuity to said Miamis, Eel River, and Wea tribes, in the following proportions, viz: to the Miamis, six hundred dollars; to the Eel River tribe, two hundred and fifty dollars; to the Weas, two hundred and fifty dollars; and also to the Putawatemies, an additional annuity of five hundred dollars, for ten years, and no longer; which, together with the sum of four thousand dollars which is now delivered, the receipt whereof they do hereby acknowledge, is to be considered as a full compensation for the land now ceded.

ARTICLE 4.

As the tribes which are now called the Miamis, Eel River, and Weas, were formerly and still consider themselves as one nation, and as they have determined that neither of these tribes shall dispose of any part of the country which they hold in common; in order to quiet their minds on that head, the United States do hereby engage to consider them as joint owners of all the country on the Wabash and its waters, above the Vincennes tract, and which has not been ceded to the United States, by this or any former treaty; and they do farther engage that they will not purchase any part of the said country without the consent of each of the said tribes. *Provided always*, That nothing in this section contained, shall in any manner weaken or destroy any claim

which the Kickapoos, who are not represented at this treaty, may have to the country they now occupy on the Vermillion river.

ARTICLE 5.

The Putawatimies, Miami, Eel River, and Wea tribes, explicitly acknowledge the right of the Delawares to sell the tract of land conveyed to the United States by the treaty of the eighteenth day of August, eighteen hundred and four, which tract was given by the Piankashaws to the Delawares, about thirty-seven years ago.

ARTICLE 6.

The annuities herein stipulated to be paid by the United States, shall be delivered in the same manner, and under the same conditions as those which the said tribes have heretofore received.

ARTICLE 7.

This treaty shall be in force and obligatory on the contracting parties as soon as the same shall have been ratified by the President, by, and with the advice and consent of the Senate of the United States.

In testimony whereof, the said commissioner plenipotentiary of the United States, and the sachems, chiefs, and head men of the said tribes, have hereunto set their hands and affixed their seals.

Done at Grouseland, near Vincennes, on the twenty-first day of August, in the year eighteen hundred and five, and of the independence of the United States the thirtieth.

William Henry Harrison, [L. S.]

Delawares:

Hocking Pomskan, his x mark, [L. S.]

Kecklawhenund, or William Anderson, his x mark, [L. S.]

Allime, or White Eyes, his x mark, [L. S.]

Tomague, or Beaver, his x mark, [L. S.]

Pattawatimas:

Topanopee, his x mark, [L. S.]

Lishahecon, his x mark, [L. S.]

Wenamech, his x mark, [L. S.]

Miamis:

Kakonweconner, or Long Legs, his x mark, [L. S.]

Missingguimeschan, or Owl, his x mark, [L. S.]

Wabsler, or White Skin, his x mark, [L. S.]

Mashekanochquah, or Little Turtle, his x mark, [L. S.]

Richardville, his x mark, [L. S.]

Eel Rivers:

Wanonecana, or Night Stander, his x mark, [L. S.]

Metausauner, or Sam, his x mark, [L. S.]

Archekatauh, or Earth, his x mark, [L. S.]

Weas:

Assonnonquah, or Labossiere, his x mark, [L. S.]

Misquaconaqua, or Painted Pole, his x mark, [L. S.]

Ohequanah, or Little Eyes, his x mark, [L. S.]

Delawares:

Misseneward, or Captain Bullet, his x mark, [L. S.]

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Done in the presence of—

B. Parke, secretary to the commissioner,

John Gibson, secretary Indiana Territory,

John Griffin, a judge of the Indiana Territory,

B. Chambers, president of the council,

Jesse B. Thomas, Speaker of the House of Representatives.

John Rice Jones,

Samuel Gwathmey,

Pierre Menard,

Members legislative council, Indiana Territory,

Davis Floyd,

Shadrach Bond,

William Biggs,

John Johnson,

Members house of representatives Indiana Territory,

W. Wells, agent of Indian affairs,

Vigo, colonel of Knox County Militia,

John Conner,

Joseph Barron,

Sworn interpreters.

ADDITIONAL ARTICLE.

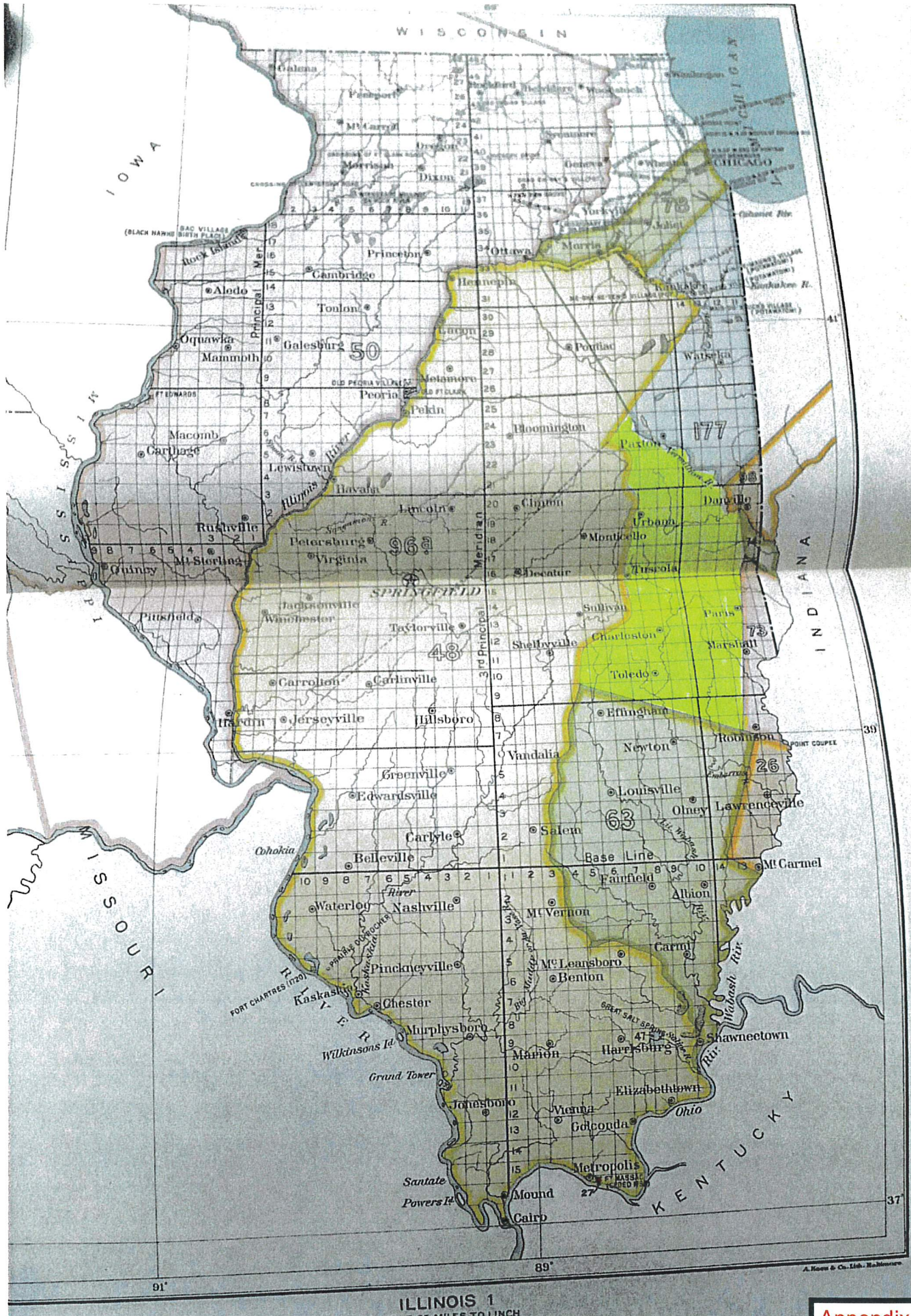
It is the intention of the contracting parties, that the boundary line herein directed to be run from the north east corner of the Vincennes tract to the boundary line running from the mouth of the Kentucky river, shall not cross the Embarras or Drift Wood fork of White river, but if it should strike the said fork, such an alteration in the direction of the said line is to be made, as will leave the whole of the said fork in the Indian territory.

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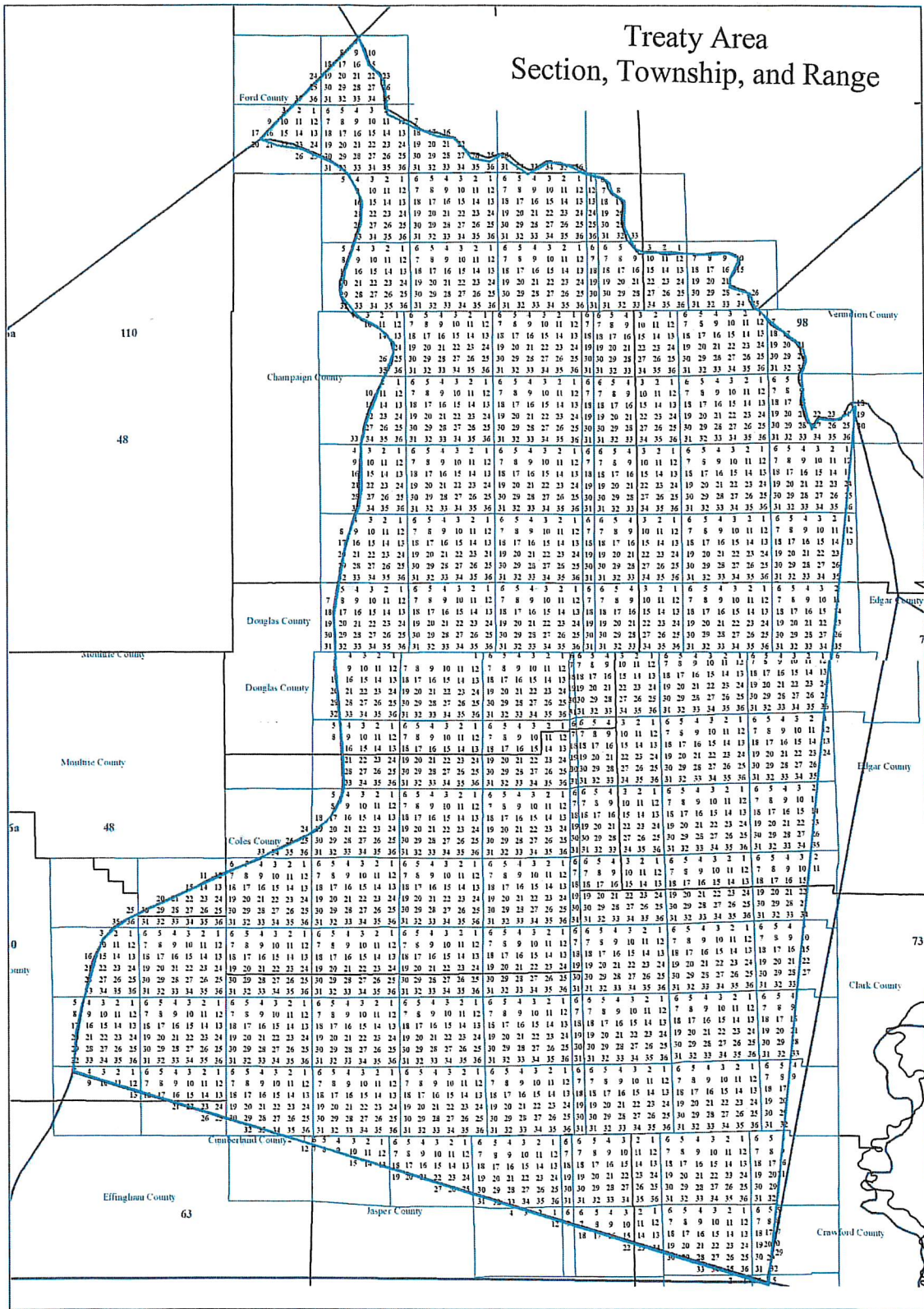
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Grouseland Treaty Area



Grouseland Treaty Area



107TH CONGRESS
1ST SESSION

H. R. 791

To provide for the equitable settlement of certain Indian land disputes
regarding land in Illinois.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2001

Mr. JOHNSON of Illinois introduced the following bill; which was referred to
the Committee on Resources

A BILL

To provide for the equitable settlement of certain Indian
land disputes regarding land in Illinois.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SETTLEMENT OF CLAIMS.**

4 (a) FINDINGS.—The Congress finds the following:

5 (1) The Miami Tribe of Oklahoma, the Ottawa
6 Tribe of Oklahoma, and the Potawatomi Tribe of
7 Kansas have raised questions with respect to the
8 title of certain lands within the State of Illinois
9 based upon treaties negotiated with the United
10 States.

1 (2) The Miami Tribe of Oklahoma has filed a
2 lawsuit in the United States District Court for the
3 Southern District of Illinois against private land-
4 owners who hold title pursuant to land patents
5 issued by the United States alleging that the Miami
6 are the rightful owners of 2,600,000 acres of land
7 within the State of Illinois.

8 (3) There are no allegations that the State of
9 Illinois and its citizens have violated the Trade and
10 Intercourse Act of 1790 or any other Federal law
11 against any of the aforementioned tribes, and there-
12 fore the sole issue is whether the United States
13 properly acquired title to the lands claimed by the
14 tribes before the issuance of Federal land patents.

15 (4) None of the aforementioned tribes currently
16 resides or has federally recognized Indian trust land
17 in the State of Illinois, nor does the State of Illinois
18 contain any other federally recognized Indian trust
19 land.

20 (5) The pendency of the lawsuit and the poten-
21 tial for additional lawsuits may result in severe eco-
22 nomic hardships for residents of Illinois who have in
23 good faith relied upon the land patents issued by the
24 United States.

1 (6) The Congress shares with the State of Illi-
2 nois and the party defendants to the lawsuits a de-
3 sire to remove all clouds on titles resulting from
4 such Indian land claims, while allowing the tribes to
5 resolve any outstanding issues with the United
6 States over compensation for the Federal acquisition
7 of the property.

8 (b) EXTINGUISHMENT OF TITLE AND CLAIMS.—

9 (1) CLAIMS BASED UPON TREATIES.—Except
10 with regard to the United States as a defendant as
11 provided in subsection (c), any claim by any Indian
12 tribe, any member of any Indian tribe, or any prede-
13 cessors or successors in interest thereof in or to any
14 land or interest in land in the State of Illinois aris-
15 ing out of Article IV of the Treaty of Grouseland,
16 dated August 21, 1805 (7 Stat. 91); and any claim
17 by any Indian tribe, any member of any Indian
18 tribe, or any predecessors or successors in interest
19 thereof in or to any land or interest in land in land
20 in DeKalb County, Illinois, arising out of Article III
21 of a treaty with the United Nations of Chippewa,
22 Ottawa, and Potawatamie Indians, dated July 29,
23 1829 (7 Stat. 320) or Article 2 of a treaty with the
24 United Tribes of the Ottawas, Chipawas and

1 Pottowotomees, dated August 24, 1816 (7 Stat.
2 146) is hereby extinguished.

3 (2) ABORIGINAL TITLE AND CLAIMS EXTIN-
4 GUIshed.—To the extent that any Indian tribe de-
5 scribed in paragraph (a) or any member of such
6 tribe, or any predecessors or successors in interest
7 thereof had aboriginal title to any land or interest
8 in land described in paragraph (1), such aboriginal
9 title is hereby extinguished. Except with regard to
10 the United States as a defendant as provided in sub-
11 section (c), any claims based upon such aboriginal
12 title to such lands is hereby extinguished.

13 (c) CLAIMS AGAINST THE UNITED STATES.—Not-
14 withstanding any other provision of law, exclusive jurisdic-
15 tion is hereby conferred upon the United States Court of
16 Federal Claims to hear, determine, and render judgment
17 with respect to any claim otherwise extinguished by sub-
18 section (b). The United States shall be the only person
19 or entity liable regarding such a claim and monetary dam-
20 ages shall be the only available remedy. All such claims
21 against the United States shall be extinguished unless
22 filed not later than 1 year after the date of enactment
23 of this Act.

24 (d) DEFINITION OF CLAIM.—For the purposes of this
25 Act, the term “claim” includes, but is not limited to, any

- 1 claim for trespass damages, use and occupancy, natural
- 2 resources, and hunting and fishing rights.

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107TH CONGRESS
1ST SESSION

S. 533

To provide for the equitable settlement of certain Indian land disputes
regarding land in Illinois.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2001

Mr. DURBIN (for himself and Mr. FITZGERALD) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

A BILL

To provide for the equitable settlement of certain Indian
land disputes regarding land in Illinois.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SETTLEMENT OF CLAIMS.**

4 (a) FINDINGS.—The Congress finds the following:

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10 States.

1 (2) The Miami Tribe of Oklahoma has filed a
2 lawsuit in the United States District Court for the
3 Southern District of Illinois against private land-
4 owners who hold title pursuant to land patents
5 issued by the United States alleging that the Miami
6 Tribe are the rightful owners of 2,600,000 acres of
7 land within the State of Illinois.

8 (3) There are no allegations that the State of
9 Illinois and its citizens have violated the Trade and
10 Intercourse Act of 1790 or any other Federal law
11 against any of the aforementioned tribes, and there-
12 fore the sole issue is whether the United States
13 properly acquired title to the lands claimed by the
14 tribes before the issuance of Federal land patents.

15 (4) None of the aforementioned tribes currently
16 resides or has federally recognized Indian trust land
17 in the State of Illinois, nor does the State of Illinois
18 contain any other federally recognized Indian trust
19 land.

20 (5) The pendency of the lawsuit and the poten-
21 tial for additional lawsuits may result in severe eco-
22 nomic hardships for residents of Illinois who have in
23 good faith relied upon the land patents issued by the
24 United States.

1 (6) The Congress shares with the State of Illi-
2 nois and the party defendants to the lawsuits a de-
3 sire to remove all clouds on titles resulting from
4 such Indian land claims, while allowing the tribes to
5 resolve any outstanding issues with the United
6 States over compensation for the Federal acquisition
7 of the property.

8 (b) EXTINGUISHMENT OF TITLE AND CLAIMS.—

9 (1) CLAIMS BASED UPON TREATIES.—Except
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11 provided in subsection (c), any claim by any Indian
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13 cessors or successors in interest thereof in or to any
14 land or interest in land in the State of Illinois aris-
15 ing out of Article IV of the Treaty of Grouseland,
16 dated August 21, 1805 (7 Stat. 91); and any claim
17 by any Indian tribe, any member of any Indian
18 tribe, or any predecessors or successors in interest
19 thereof in or to any land or interest in land in land
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3 (2) ABORIGINAL TITLE AND CLAIMS EXTIN-
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5 scribed in paragraph (a) or any member of such
6 tribe, or any predecessors or successors in interest
7 thereof had aboriginal title to any land or interest
8 in land described in paragraph (1), such aboriginal
9 title is hereby extinguished. Except with regard to
10 the United States as a defendant as provided in sub-
11 section (c), any claims based upon such aboriginal
12 title to such lands is hereby extinguished.

13 (c) CLAIMS AGAINST THE UNITED STATES.—Not-
14 withstanding any other provision of law, exclusive jurisdic-
15 tion is hereby conferred upon the United States Court of
16 Federal Claims to hear, determine, and render judgment
17 with respect to any claim otherwise extinguished by sub-
18 section (b). The United States shall be the only person
19 or entity liable regarding such a claim and monetary dam-
20 ages shall be the only available remedy. All such claims
21 against the United States shall be extinguished unless
22 filed not later than 1 year after the date of enactment
23 of this Act.

24 (d) DEFINITION OF CLAIM.—For the purposes of this
25 Act, the term “claim” includes, but is not limited to, any

- 1 claim for trespass damages, use and occupancy, natural
- 2 resources, and hunting and fishing rights.

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