

**TESTIMONY**  
**OF**  
**DOUGLAS G. LANKFORD**

Before the  
House Natural Resources Committee  
Subcommittee on Indian and Alaska Native Affairs  
Thursday, March 27, 2014, at 11:00 a.m.  
1324 Longworth House Office Building  
Legislative Hearing on

**H.R. 4002 (Mullin)**, To revoke the charter of incorporation of the Miami Tribe of Oklahoma at the request of that tribe and for other purposes.

CHAIRMAN YOUNG and Honorable Members of the Subcommittee:

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. 4002, a bill that would express Congress's acceptance of the Tribe's offer to surrender of its 1940 federal corporate charter. H.R. 4002 promotes the Tribe's governmental and economic self-determination by disposing of an unused relic of a bygone era of federal Indian policy. The need for an Act of Congress to surrender a Tribal governing document, speaks to how cumbersome and outdated the document is and why the Tribe has never used it.

## *History of the Tribe and the Charter*

The Miami Tribe of Oklahoma (the Tribe) is a federally-recognized Indian tribe, exercising retained, inherent, sovereign authority over its lands and people. The Tribe's original homelands are located in what became the state of Indiana. In 1846, the Tribe was forcibly removed to the Wichita Agency located in present-day Kansas, and was again removed from its Kansas lands to the Indian Territory in what became Ottawa County in Northeast Oklahoma.

In 1939, the Tribe was organized under the Thomas-Rogers Oklahoma Indian Welfare Act of June 26, 1936 (OIWA). Like other tribes nationwide that were organized under the OIWA and the Indian Reorganization Act (IRA), the Tribe was issued a Corporate Charter on April 15, 1940. A copy of the Charter was submitted with the Tribe's written testimony as Exhibit 1. One of the intended purposes of the Charter was to provide a means by which the Tribe could segregate its governmental and economic functions, assets, and liabilities. But, from the time that the Charter was issued, the Tribe, like most OIWA and IRA-organized tribes, did not use it, and there are two fundamental reasons why.

### *Corporate Charter Impediments to Tribal Business Activities*

First, the limitations placed on corporate activities were unrealistic in 1940 and are archaic today. For example, the Charter limits the corporate entity to the assignment of future corporate income to a period of five years, limits lease terms to 10 years, and prohibits any sale or mortgage of land held by the corporation. Changing or eliminating these restrictions by amendment is also an onerous process. The Tribe must

submit proposed amendments to the Department of the Interior for review and approval. Upon approval, the Secretary of the Interior must call and conduct a Secretarial election on the proposed amendments. That process makes it incredibly difficult to update or amend the Charter to keep up with a dynamic marketplace and the best practices of corporate structuring.

Second, the Charter is unnecessary. Like most IRA and OIWA tribes, the Tribe operates all of its economic activities under its constitutional authority and not under the Charter. The Miami Nation Enterprise Act and the Miami Business Development Act govern the establishment and operation of all of its business activities, including ten active, varied business enterprises engaged in activities ranging from gaming to construction: TSI Global Companies, Miami Business Services, Miami Cineplex, Rocket Gaming, Ohio Ambulance, Prairie Moon and Prairie Sun Casinos, White Loon Construction, Carnahan White Metal Works, and the Miami Tobacco Outlet.

Surrendering the Charter does more than simply clean up the Tribe's governing documents; it removes the Charter as an obstacle to the Tribe's business activities. For example, the Charter causes confusion, or even worse uncertainty, about the source of Tribal corporate authority. Anytime due diligence is performed in furtherance of a business transaction, questions are asked about the significant limitations imposed by the Charter. This uncertainty creates more than a mere inconvenience; it causes uncertainty, which has a real financial impact on the Tribe, both on the costs of transactions and the potential chilling of business opportunities. Because the Charter does not serve any productive purpose and because it is an obstacle to the Tribe's business activities, it was an easy decision for the Tribal Business

Committee to adopt Resolution 13-60 directing that it be surrendered. A copy of the BC's Resolution was submitted with the Tribe's written testimony as Exhibit 2.

In sum, the Charter is a relic of a bygone, more paternalistic time in federal Indian policy. It imposes limitations on business activities that were unrealistic in 1940 and are non-functional in today's business environment. It also involves the federal government in an oversight role that is out of step with the current federal policy of promoting Tribal governmental and economic self-determination.

#### *Language of HR 4002*

Because the Tribe does not operate under the Charter and the Charter does not establish a realistic or efficient structure for operating business activities, the Tribe wishes to simply abandon it pursuant to the provisions of the Charter. Section 8 of the Charter provides that the Charter may be surrendered by an act of Congress. H.R. 4002 does not plow new ground. Instead, it tracks the language from prior legislative surrenders of corporate charters of other federally-recognized Indian tribes, including:

- Minnesota Chippewa Tribe's (Section 13 of PL 104-109)(1996));
- the Prairie Island Indian Community (Section 1 of PL 104-261 (1996)); and
- the Stockbridge Munsee Community of Mohican Indians (Section 2 of PL 106-216 (2000)).

Copies of these laws, and some relevant legislative history, including floor statements by Representatives Gutknecht (Minnesota), Kildee (Michigan) Hansen (Utah) and Miller (California) as well as Senator McCain (Arizona) are included as Exhibits 3, 4, and 5, respectively, to the Tribe's written testimony in support of the Bill.

The Miami Tribe of Oklahoma respectfully requests Congress's support for H.R. 4002. I thank the Chairman and the Subcommittee members for their time and the opportunity to testify in support of the Bill and especially Representative Mullin for sponsoring it.

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