

TESTIMONY OF JOHN P. FROMAN
CHIEF OF THE PEORIA TRIBE OF INDIANS OF OKLAHOMA
BEFORE THE COMMITTEE ON NATURAL RESOURCES
*OKLAHOMA INDIAN ISSUES: PROPOSED REGULATIONS
GOVERNING ECONOMIC DEVELOPMENT*
Northeastern Oklahoma A & M College
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Mr. Chairman, Members of the Committee, and other guests. My name is John P. Froman, and I am Chief of the Peoria Tribe of Indians of Oklahoma, headquartered here in Miami, Oklahoma. Among our other tribal enterprises, we operate two gaming facilities in Miami – the Peoria Gaming Center, and Buffalo Run Casino. I am honored to have this opportunity to present testimony on the potential economic impact of the National Indian Gaming Commission (NIGC)'s proposed Class II gaming regulations.

I welcome you to our community, in an area of Oklahoma we call “Green Country” which is home to nine federally recognized Indian Tribes. Today, I represent not only the Peoria, but also all the Native Americans in Ottawa County, as well as the citizens of this community.

I was born and raised in Miami, attended public school here, graduated and attended Junior College on this very campus before attending Oklahoma State University. In 1985 I entered the private business sector in the management field and moved to Alabama for several years.

When I left Miami area in 1985, the newest motel had been operating less than one year, when this entire four-state area took a huge economic hit as BF Goodrich plant manufacturing plant closed and displaced over 2,000 employees. In the years that followed, Ottawa County had the highest unemployment rate in the State of Oklahoma. During this time I recall two tribes operated bingo parlors; the Quapaw and Seneca-Cayuga. Indian gaming in Ottawa County was in its infancy.

Between 1985 and 1990, when I moved my family back to Miami, the population of Miami had decreased from nearly 19,000 to just over 13,000. Throughout the 90s job opportunities in the Miami area were scarce; although tribal development was beginning to flourish. The Miami Tribe and Modoc Tribe created a joint partnership to open The Stables Casino, the first located within the city limits of Miami. Since then The Stables Casino has expanded several times and nearly doubled its gaming space. Nearly ten years later, eight of the nine tribes in Ottawa County are operating a gaming enterprise.

While relatively new to gaming, having opened our first facility in 2004, the Peoria Tribe built our business with Class II games. At the time we undertook our gaming development, Oklahoma was a State government that had been unwilling to discuss other forms of gaming with the Tribes. Thus, Class II was our only option when we chose to build our gaming facilities. While we only had one option, we felt comfortable enough

with the certainty of the current Class II regulatory scheme to make a fourteen million dollar investment in Miami, Oklahoma to build our gaming facilities.

It is an investment that has paid tremendous dividends. Today our two facilities employ more than four hundred fifty employees, with an annual payroll of \$7.6 Million dollars. These have become highly sought-after jobs that feature full benefits. Employees of our gaming facilities have health insurance and retirement plans in addition to their salaries, things that create true opportunity for our employees. Our facilities have become primary employers for Ottawa County, providing opportunities for all in a community hard hit by the loss of key industries in the Nineties.

The prosperity generated by our gaming businesses has had a profound impact on our government entities and other businesses. The income we have generated from gaming has allowed the Peoria to provide a significant increase in benefits for Tribal members, ranging from additional educational scholarships for our youth, to covering burial costs in the event of a Tribal member's death. Today no child is denied an education for lack of funds. Our success has ensured members of the Peoria Tribe receive the tools they need to compete in the global marketplace, and our members are using these resources to become accountants, doctors and engineers. Using the money we earn from gaming has allowed our people to shine, and today the Peoria take leading roles in the communities in which they live.

The revenue earned from gaming has also allowed us to reinvest in our other businesses. Thanks to gaming, our world-class golf course is now owned, debt free. This Enterprise attracts thousands of visitors annually thus, creating even more good paying jobs for the residents of Ottawa County.

Perhaps most important, the revenue earned from gaming has allowed the Peoria to heavily invest in our local community. The contributions we make are large and small, obvious, and not so obvious. Yet all are significant, and have a tremendous impact on the quality of life in Ottawa County.

With a payroll of \$7.6 Million dollars and annual expenditures of more than \$30 Million dollars, the Peoria gaming facilities have a tremendous impact on the local community. Our employees live in Miami and the surrounding areas, where they buy houses and cars, shop at local stores and pay local taxes. Many of our Tribal members live in the local area, with some owning local businesses. We want our community to succeed, and we pride ourselves in buying local. From office and cleaning supplies, to professional services like electricians and plumbers, to the many vehicles we give away at our casinos, the Peoria Tribe directly contributes millions of dollars each year to the local economy.

Because they live here and we want Miami to grow, we encourage our employees to participate in the community. Today our employees are the little league coaches, scout leaders and other volunteers who improve the quality of life in Ottawa County. Our business leaders subsidize the United Way and other community organizations, and we actively participate in efforts to bring additional tourism to Ottawa County.

This support for our community is backed by more than our people – it is also backed by our dollars. Our Casino regularly hosts concerts and nationally televised sporting events; activities that dramatically add to the quality of life in our community, and that increase Miami's exposure worldwide. Boxing fans are becoming as familiar with Miami, Oklahoma as they are with Miami, Florida when they see fights televised from our Buffalo Run Casino on Showtime, ESPN and Fox Sports Net. Our golf course hosts a stop on the Hooters Golf Tour, allowing fans in the area a chance to meet some of the young golfers as they start their professional golf careers. The opportunities created by these events add much to the quality of life, and encourage folks from the four-state region to visit Miami, Oklahoma.

The effects of gaming operations in our community can be measured by increases in the City of Miami motel tax. Within the last eighteen months one new motel has opened and three are presently under construction in our area. Motel tax for 2005, as supplied by the City of Miami, was nearly \$75,000; in 2007 the same tax rose to over \$121,000, almost a two-fold increase in two years.

And when disaster strikes, our gaming revenue has allowed the Peoria to come to the community's aid. When Ottawa County was devastated by flooding in July, 2007; and again by the ice storms that struck in January; our people stepped forward and provided tens of thousands of dollars in funding for hotel rooms for those whose houses had been damaged or destroyed. The Peoria stepped forward – as did the other Tribes in the area – and used our gaming revenue to help those in need. We did it to help our families, friends and neighbors. We helped the kids who our children go to school with, and men and women who live down the street, are in our civic clubs, and who go to our churches. We did it because it was the right thing to do – and we did it because Class II gaming gave us the resources that put us in a position to help.

Since the passage of Class III gaming in November 2004, the Peoria have converted many of our games to Class III devices. Yet we still have demand for Class II games, and they still represent up to 60% of our gaming floor. For the Peoria, Class II remains an important source of gaming revenue. That alone makes it important for us to monitor these important issues.

But perhaps more important is the potential impact of the NIGC's proposed Class II regulations on the rights of our tribe. We believe the language in these proposed regulations does much to erode our Tribal sovereignty and to further diminish the business opportunities affirmed in the Indian Gaming Regulatory Act (IGRA).

We have little doubt that the NIGC's proposed regulations will dramatically affect the profitability of Class II gaming. With requirements that force slow and inconsistent game-play, the economic impact on Class II will be devastating. As the NIGC's own economic impact study indicated, the annual cost to Class II gaming will be up to one point eight billion (\$1,800,000,000) dollars annually. Such a financial impact would cost

the Peoria Tribe millions of dollars annually, even though we have already enhanced the variety of our gaming floor with Class III games.

While the financial impact is significant, the other implications are far more ominous. The Commission's actions are a direct threat to the sovereignty of the Peoria Tribe. Rather than allowing the Tribes to serve as the primary regulator of Class II gaming, as clearly called for in IGRA, the proposed Game Classification standards replace our Tribal Gaming regulators with a private, for profit laboratory. Such an outcome clearly takes away a right of the Tribes affirmed by IGRA. The fact that an agency would overrule an act of Congress in this manner is disconcerting.

Yet I am far more concerned about the stealth attack on sovereignty that these regulations represent. IGRA reaffirmed the right of Tribes to choose between Class II and Class III gaming. It is a choice left solely to the tribes, and an important right rising from tribal sovereignty.

Unfortunately, the proposed Class II regulations render the choice between Class II and Class III meaningless. The choice between a Class II game that will produce less than half of what they make today and a traditional Class III game is not a choice at all. The NIGC's actions will make the decision for us, and deprive us of the right to make important business decisions unfettered by government interference. Such an outcome is offensive regardless of the business, but it is particularly offensive when it is a regulatory action that deprives a sovereign of a choice affirmed by Congress in IGRA.

The effective loss of choice has significant, long term ramifications for the Peoria and all of the tribes in Oklahoma. All of us can remember the time prior to the arrival of effective Class II gaming systems – a time when the State of Oklahoma had no interest in discussing gaming compacts with the Tribes. We couldn't get to the revenue sharing question – from our perspective, it appeared the State simply didn't want to allow this activity to occur. It was only after Class II gaming became a viable alternative, and allowed Tribes to participate in gaming regardless of the State's desires, that the State chose to enter into Compact negotiations.

If the NIGC is allowed to destroy the profitability of Class II gaming, we have no guarantee that the State will negotiate with us in the future when it is time to renew our Compact. If the State reverts to its prior positions, we could easily find ourselves in a position where hundreds of millions in Tribal investments are lost as an industry is wiped out. While it may be hard to contemplate, States have rolled back gaming in the past – most notably in South Carolina – and we have no guarantee that the same would not happen in Oklahoma.

Even if the State chooses to negotiate, I am concerned about how such negotiations would go without the leverage created by profitable Class II games. This is one of the potential costs identified by the NIGC's economic impact study – and one that is clearly raised by the Oklahoma experience. When Oklahoma Tribes completed their negotiations with the State in 2004, favorable terms were achieved, with Oklahoma's

revenue share being one of the lowest in the United States. The percentage has allowed Tribes to keep their dollars in the local communities, and accomplish all of the benefits I detailed earlier. Should the leverage of Class II be lost, Oklahoma tribes could easily find themselves facing more than double the revenue sharing costs we provide today. While some may argue that the increased fees benefit the State, we are concerned about how this redistribution of dollars will affect the Peoria and our neighbors in Miami and Ottawa County.

In 2007, the Peoria Tribe alone contributed over \$700,000 to the State of Oklahoma in gaming fees. When dollars are sent to the State Capitol, there is no guarantee that they will come back to our community. There is no doubt that loss of these dollars will limit our ability to participate locally. Dollars that are currently used to pay our employees great benefits, to purchase millions of dollars worth of local products and to support many community organizations will go to Oklahoma City instead. Thus, the increased revenue share becomes a tax that directly impacts the Peoria Tribe, and our neighbors in Miami and Ottawa County.

As you can tell from my comments, the Peoria are passionate about the future of Miami and Ottawa County. It is our home, and we want it to prosper. We are proud of the role we play, and simply want the right to continue.

I am greatly concerned about our ability to do so. The NIGC's proposed regulations jeopardize the success we have earned, and their effect if implemented will have a dramatic impact on our community. Thus, I appear before you today asking for your help. Because the proposed regulations will in all likelihood devastate what we have built in our community, we ask that you help us, and work with us to ensure these proposed regulations are not enacted.

Gaming facilities are bringing outside investment into our community, a community that for years has been known primarily for "the largest single Superfund Site" in the Picher mining area. We as tribal leaders, citizens of Miami, the State of Oklahoma, and the United States, want to lose that stigma. Maintaining viable gaming opportunities will help us achieve that goal.

We ask for and appreciate your help, and I stand ready to answer any questions you may have.