

**Representative James L. Oberstar Testimony before the
House Natural Resources Committee
June 5, 2008**

Thank you, Chairman Rahall and Ranking Member Young for holding this hearing regarding the distribution of funds awarded to the Minnesota Chippewa Tribe in Minnesota Chippewa Tribe v. United States, Docket Nos. 19 and 188, United States Court of Federal Claims.

In 1948 and 1951, the Minnesota Chippewa Tribe filed complaints in Dockets 19 and 188 before the Indian Claims Commission. From the time of filing until the claims were settled in 1999, the Minnesota Chippewa Tribe prosecuted the claims on behalf of the Chippewas of Minnesota, excluding the Red Lake Nation.

The claims in the cases were: a claim that the proceeds from the sale of land and timber on the six reservations under the Nelson Act were misspent, and a claim that the land and timber were sold at less than full value.

On May 26, 1999, the claims were settled by a majority of the Tribal Executive Committee and judgment was entered. The judgment was simply: "The plaintiff (the Minnesota Chippewa Tribe) shall recover of and from the United States the sum of \$20 million.

On September 9, 1999, the Tribal Executive Committee enacted Resolution 40-00, allocating each Band an equal share of the net proceeds of the judgment funds and only the two Leech Lake representatives on the Tribal Executive Committee voted "NO."

- The Minnesota Chippewa Tribe is composed of six Bands. Under the Tribal constitution, the governing body is the Tribal Executive Committee and two elected officials from each Band comprise the twelve members of the Tribal Executive Committee.

On June 6, 2001, the Bureau of Indian Affairs prepared a Results of Research Report recommending that the judgment funds “shall be allocated pro rata between the Bands based on the number of tribal members currently enrolled with each of the Bands.” Before and after June 6, 2001, the Minnesota Chippewa Tribe objected to the Results of Research as erroneous and inconsistent with tribal law.

On April 26, 2007, the Bureau of Indian Affairs sent to Congress proposed legislation that would give effect to the Bureau of Indian Affairs proposal to award the \$20 million settlement, plus \$6 million in accrued interest, amongst the six Bands based on their current population. The Bureau of Indian Affairs based its proposed legislation on the 2001 Results of Research Report, ignoring and disregarding Resolution 40-00, a majority decision of the Minnesota Chippewa Tribe.

On May 14, 2007, Representative Collin Peterson introduced the Minnesota Chippewa Tribe Judgment Fund Distribution Act (H.R. 2306), legislation consistent with the 2001 Results of Research Report. In response and at the request of members of the Tribal Executive Committee, I introduced H.R. 3699, legislation consistent with the vote of the Tribal Executive Committee Resolution 40-00 which would distribute the funds equally among the six Bands because I believe it is imperative to uphold tribal sovereignty.

The processes employed by the Tribal Executive Committee must be respected and honored. There was debate and discussion surrounding the distribution of the judgment funds and there was a vote regarding the distribution of those funds. A settlement contrary to Resolution 40-00 does not respect that structure and it does not respect tribal law.

The Results of Research Report ignores the fact that the only entity eligible to participate in the award is the Minnesota Chippewa Tribe. The Minnesota Chippewa Tribe brought the claims, prosecuted the claims, settled the claims, and was awarded the judgment in the claims.

Throughout the litigation process, the government benefitted from treating the Minnesota Chippewa Tribe as one entity. First, it relieved the government of an obligation to provide an accounting to each of the respective Bands. Second, it allowed the government to defend disbursements from the Nelson Act fund as long as any Band benefitted from an expenditure, And third, it allowed for the dismissal of the dockets based on consent from the Minnesota Chippewa Tribe without the unanimous approval of all of the Bands of the Minnesota Chippewa Tribe.

In a letter dated May 22, 2008, Carl J. Artman, Assistant Secretary, Indian Affairs, rescinded the 2001 Results of Research Report “because the proposed legislation could undermine the Constitution of the Minnesota Chippewa Tribe and be harmful to the Tribe’s relationship with the United States.”

Believing in the need to honor and uphold tribal sovereignty, and in light of the recision of the 2001 Results of Research Report, I continue to advocate for a 1/6 settlement of the funds awarded to the Minnesota Chippewa Tribe as proposed in my legislation (H.R. 3699).

Thank you again, Chairman Rahall and Ranking Member Young, for holding this important hearing.