

**Statement of Chief Executive Marge
Anderson**

**Non-Removable
Mille Lacs Band of Ojibwe
Onamia, Minnesota**

**Before The United States House
Committee on Natural Resources
Subcommittee on Indian and Alaska
Native Affairs**

March 1, 2012

Mr. Chairman, Members of the Committee, I am Marge Anderson, Chief Executive of the Mille Lacs Band of Ojibwe Indians, located in east central Minnesota. Thank you for the opportunity to submit testimony to your Committee.

I am here today on behalf of the Mille Lacs Band of Ojibwe regarding the distribution of a judgment awarded to the Minnesota Chippewa Tribe in Docket Nos. 19 and 188 in the United States Court of Federal Claims in 1999. After over twelve years, it is time these monies went to the people who were harmed. Four years ago this Committee told us to go back to Minnesota and reach an agreement on distribution. After much effort, that is what we have done. The Tribe has voted to distribute the judgment, and I support the Tribe's sovereign authority and property right to determine the distribution of the judgment awarded to the Tribe. The Tribe's determination is reflected in H.R. 1272, a bill sponsored by our Congressman, Chip Cravaack, and Congressman Collin Peterson.

THE MILLE LACS BAND SUPPORTS H.R. 1272.

The Minnesota Chippewa Tribe

The Mille Lacs Band of Ojibwe is one of the six constituent bands which comprise the Minnesota Chippewa Tribe. Each of the constituent bands is, in its own right, a distinct sovereign government. This fact is reflected in the bands' Self-Governance Compacts with the United States Department of the Interior and the Department of Health and Human Services.

However, the Minnesota Chippewa Tribe is, itself, also a sovereign entity. It was formed in 1936 under the Indian Reorganization Act, and its constitution was approved by the Secretary of the Interior. Under the Tribe's revised constitution, approved by the Secretary in 1964, the governing body of the Tribe is the Tribal Executive Committee (TEC). Each constituent band has equal representation on the TEC, with two seats each. The constitution authorizes the TEC to act by majority vote.

While this structure is unusual in Indian Country, it has been in place for more than 70 years. Just as the Court made clear in approving the settlement, now, here, in providing for the distribution of the judgment in Docket Nos. 19 and 188, Congress should respect the sovereignty of the Tribe.

The Judgment Fund

The Minnesota Chippewa Tribe was the only plaintiff in Docket Nos. 19 and 188 before the Indian Claims Commission (*See* Order attached). After the Indian Claims Commission ceased to exist, the cases were transferred to the United States Court of Federal Claims, where the Tribe remained the only plaintiff. The Tribe ultimately resolved its claims by entering into a settlement agreement with the United States. The Tribe and the United States were the only parties to the settlement agreement.

It is important to note that **the many decisions to undertake the litigation, finance and prosecute the litigation, negotiate, reach and approve the settlement all** were made by the

TEC. It is also important to note that the Court specifically recognized and affirmed the TEC's constitutional authority to act on behalf of the Tribe before approving the settlement agreement.

The TEC approved the settlement of its claims on July 1, 1998, when it enacted Resolution 01-99. The vote was 6 to 3, with 10 members present.

On May 21, 1999, the Tribe and the United States filed a Joint Motion and Stipulation for Entry of Final Judgment in the Court of Federal Claims. The stipulation called for the Court to enter judgment in the amount of \$20,000,000 "in favor of plaintiff Minnesota Chippewa Tribe."

The TEC resolution reflecting this vote was submitted to the Court in support of the parties' motion. The Court found that "[t]he Tribal Executive Committee has the constitutional authority to enter into the proposed settlement on behalf of the Minnesota Chippewa Tribe," and that the TEC resolution approving the settlement (along with the signature of the Tribe's attorney on the stipulation) was "appropriate and sufficient evidence of acceptance by the Tribe of the settlement."

On May 26, 1999, the Court approved the settlement and directed the Court to enter judgment "pursuant to the [parties'] stipulation." Judgment was entered for "plaintiff," the Minnesota Chippewa Tribe.

In accordance with the Court's judgment, \$20,000,000 was deposited into a trust fund account, creating the judgment fund. Under federal law, the sole beneficiary of the judgment fund is the Minnesota Chippewa Tribe.

Under the Tribe's constitution, the TEC is authorized to make decisions to administer, expend and apportion funds within the control of the Tribe. On October 1, 2009, the TEC enacted Resolution No. 146-09, which approved a plan to distribute the funds and requested Congress to authorize the distribution in the manner described.

Need for Legislation

The Judgment Fund Distribution Act of 1973 requires the Secretary of the Interior to submit a proposed judgment distribution plan to Congress no later than one year after the date that funds are appropriated to satisfy an Indian Claims Commission judgment. The Secretary may obtain an automatic six-month extension to this deadline. If a proposed distribution plan is not submitted within the deadline, the funds may only be distributed through the enactment of legislation.

If the Secretary of the Interior had accepted the September 1999 decision of the Minnesota Chippewa Tribe and submitted a proposed judgment fund distribution plan to Congress by June 2000, the plan would have gone into effect *automatically* at about the same time the 106th Congress adjourned for the August 2000 legislative recess. Because the Secretary failed to do so, Congress must now enact a statute providing for the distribution of the judgment fund.

Reasons for Supporting H.R. 1272

We have three principal reasons for supporting H.R. 1272:

1. Sovereignty and Property Rights. Congressmen Peterson's and Cravaack's bill respects the sovereignty and property rights of the Minnesota Chippewa Tribe.

When the Tribe was considering whether to approve the settlement, some bands voted against it. However, under the constitution of the Minnesota Chippewa Tribe, the Tribal Executive Committee acts by majority vote and the settlement was approved by majority vote of the TEC. Appropriately, the vote was then accepted by the Department of Justice and the Department of the Interior and by the Court of Federal Claims. It is appropriate that Congress, now, gives the same respect to the Tribe's decision regarding the distribution of the judgment as the Government gave to the Tribe's decision to settle the case.

If the Minnesota Chippewa Tribe is truly a government, and it is, its votes cannot be overruled on matters under its jurisdiction, including the distribution of a fund awarded to the Tribe. The defendant in a lawsuit cannot agree to settle a case by paying a sum of money to the plaintiff and then, when the plaintiff determines how the money is to be distributed, disregard that decision and pay the money to someone else. This would be a taking. Moreover, this result would be especially galling considering that it was the disregard, incompetence and misfeasance of the government that caused the very real harm to the Tribe and its members. Further, it would seemingly void the settlement and open the government to further, compounded litigation.

In short, the Mille Lacs Band is simply requesting that the federal government respect the decision of the Minnesota Chippewa Tribe regarding the distribution of a judgment awarded to the Tribe. If the government does not recognize the sovereign authority and property rights here, it is a problem not just for the Minnesota Chippewa Tribe and its six constituent bands, but for all tribes across this country.

2. History. In the early 1980s, my predecessor, the Chief Executive of the Mille Lacs Band, Arthur Gahbow, testified in front of this very Committee on dividing up another judgment obtained by the Minnesota Chippewa Tribe in another Indian Claims Commission case. He argued that the special unfairness to our Band required unique consideration. He was told by the late Congressman Bruce Vento that he needed to go back to Minnesota, and that the decision was up to the Minnesota Chippewa Tribe, not Mille Lacs.

There are matters we undertake as a Band, such as the Mille Lacs Band Self-Governance Compact with the Department of the Interior, and there are matters we undertake as a Tribe, such as the litigation concerning MCT lands and properties. The claims at issue here were brought by the Tribe and settled by the Tribe, and the judgment was awarded to the Tribe. As Congressman Vento said in the 1980s, the distribution of the award is up to the Tribe.

This important Committee and its leaders have traditionally respected the sovereignty of Indian Nations. In fact, it has often single-handedly spoken truth to power in this city on the issue of sovereignty. Often it has had to explain it, help employ it, and sometimes celebrate it. We ask you to do so again, here, now.

3. Resolution. This is a moment in history when we can resolve a longstanding conflict. If we do not do this today, this decision will linger for a generation, or even longer. That would not be responsible governance. We have spent countless hours and diverted precious resources to finalize a strong distribution plan, embraced by five of the six bands and supported by a huge majority of members. We have the common goal of wanting to do good things on our reservations, and this money from past harms can help. Today, we can and should move forward. In 2008, you told us to bring you an agreement and you would embrace it. We have in H.R. 1272 and we ask you to pass it without greater delay.

CONCLUSION

The bands of the Minnesota Chippewa Tribe work together on virtually all issues -- law enforcement, child welfare, economic development, and more. We have a long, distinguished and unified history together. Ours is a story of survival. It is also a story of occasional differences. Each of the six bands has separate stories to tell on the injustices, the hardships, the terrible insults caused by the Nelson Act. Our elders, our histories and our experts are persuasive as to the real tragedies caused to each of the Bands. Some of us look at sheer numbers of people, some at land, some at trees, some at dollars taken by Agency crooks. While these differences are real, we have resolved them with close to unanimity. We did so after debating and discussing these matters at length. We discussed proposal after proposal. Ultimately, we voted. Five of six bands are in agreement, representing eighty percent of our members. The Minnesota Chippewa Tribe has spoken as a sovereign, self-governing tribal nation.

As members of the Executive Committee of the MCT, and separately as leaders of six sovereign tribes, we have devoted thousands of hours and countless tribal resources to this distribution plan now before Congress. We know the facts, the history, the legal theories and the injustices and the horrible harms done to our people that are the basis of our claims. We lived through the litigation, undertook the negotiations, and finally embraced a settlement. We are, like you, elected by our people. And daily we are asked to make decisions, face very real, and sometimes life or death, problems and needs that stagger human imagination and certainly tribal resources.

Now, here, we have our MCT funds, our peoples' funds, languishing in a trust account in the very agency that over a century ago did the terrible harm that led to the claims. Now, here, we must get the assent of the Congress that, at the least, allowed the agency to do the harm. It is an irony and a legacy of paternalism that should give way to sovereignty, self governance, self determination and respect.

The Natural Resources Committee of the U.S. House of Representatives has come to truly respect concepts like sovereignty, self determination and self governance; indeed, it has given them life and meaning in modern times. Now, here, after too much harm, too many tears, and too much

*time, wasted work and lost resources, please end this. After a century and half of losses, after six decades of litigation, and after a dozen years of our money in a dusty account at Interior, it is time. Now, here, **give our people....our money....in our sovereign plan.***

On behalf of the Mille Lacs Band, we thank our two Congressmen and our two Senators for respecting tribal sovereignty. We thank this Committee and you, Mr. Chairman and Mr. Ranking-Member, for your long-standing respect for sovereignty. I respectfully request that the Committee do the right thing.

The right thing to do is to respect the sovereignty of the Tribe and pass H.R. 1272.

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