TESTIMONY OF
NORMAN W. DESCHAMPE
PRESIDENT
MINNESOTA CHIPPEWA TRIBE
BEFORE THE
HOUSE SUBCOMMITTEE ON INDIAN AND ALASKA NATIVE AFFAIRS
ON
H.R. 1272: TO PROVIDE FOR THE USE AND DISTRIBUTION OF THE 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.

THURSDAY, MARCH 1, 2012

Mr. Chairman and Members of the Committee:

I am Norman Deschampe, President of the Minnesota Chippewa Tribe and Chairman of the Grand Portage Tribal Council. This is the second time I have testified in the House of Representatives about the Nelson Act claims distribution. In 2008, I testified in favor of a bill that would have distributed the Nelson Act claims award in the manner consistent with the decision of the tribal governing body. Today, I testify in favor of H.R. 1272 because it also allocates the funds in the manner decided by the Tribal Executive Committee (TEC).

When I was here in 2008, it became clear that we were at an impasse – that compromise was necessary to achieve the distribution of the funds. We spent the next sixteen (16) months discussing alternatives and ended up with the allocation in H.R. 1272.

Under our Constitution, it is the responsibility of the Tribal Executive Committee to allocate funds belonging to the Tribe as a whole to the various Reservations. Although it would be nice to have a unanimous vote on all decisions, the majority rules and this was a 10-2 decision. The White Earth, Bois Forte, Grand Portage, Mille Lacs and Fond du Lac Bands support this formula.

The money that has been held in a trust account for the Minnesota Chippewa Tribe since 1999 is the result of claims arising under the Nelson Act of 1889. The funds belong to the Minnesota Chippewa Tribe and a brief historical background may be useful to understand how that came to be.

Between 1847 and 1873, there were various treaties, acts and Executive Orders that created reservations for the sole use of different Chippewa Bands in Minnesota. In that process, the United States accepted cessions from one or more separate Bands and those Bands received compensation for those lands. For example, in 1854 the Lake Superior Bands ceded approximately five (5) million acres – essentially the Arrowhead region of Minnesota – to the United States and reservations were created for the Minnesota Bands which joined in that cession: Grand Portage, Fond du Lac and Bois Forte. Later, when the Indian Claims Commission awarded additional compensation because the United States paid too little for the

land, it was the eleven (11) Lake Superior Bands – the three in Minnesota and others in Wisconsin and Michigan - that received that money.

The Nelson Act was different. The Nelson Act of 1889 represented a fundamental change in how the federal government dealt with the Chippewa Bands. In 1938 the Court of Claims discussed the impact of the Nelson Act and observed that "the bands [ceded] their separate reservations" and agreed to "participate on an equal basis in the benefits to be derived from doing so." In other words, like it or not, our ancestors agreed that the reservation lands ceded were to be disposed of for the common good – that the lands ceded were tribal lands and that the proceeds from their sale would be tribal.

Looking back on it more than a century later, we may have different views of the wisdom of that decision or whether tribal choices were freely made, but that was the reality of what happened under the Nelson Act. Today, we are dealing with the reality that the funds we were awarded in our Nelson Act claims are tribal funds to be distributed pursuant to legislation that respects our sovereignty and Constitution.

At the bottom line, the amount that we settled for was an amount that belongs to us as a whole – as the entity that brought the claim, prosecuted it, and settled it. H.R. 1272 will authorize the distribution of that claim in accordance with the Tribal decision on allocation.

Next, I want to assure you that the Tribal Executive Committee has considered the Leech Lake objections to any distribution that does not give them the lion's share of the award. I am sure you will hear that Leech Lake believes that because the greatest amount of damage occurred at Leech Lake, it should get the greatest amount of the settlement. The problem with that argument is that it is only speculation that damages of that amount occurred. First, there never was a court order or finding that a specific percentage of the claimed damages were suffered on a given Reservation. Second, the courts had already ruled that the United States was not obligated to do a band-by-band accounting. Third, this settlement included claims for both inadequate compensation and for a failure to spend what was collected for the benefit of the Chippewa. We never split the settlement into percentages for any purpose because we had no factual basis for such a division. And, finally, it is literally impossible to divide up the award based on Leech Lake's theory because that was an appraiser's estimate of a timber value – not of damages. The damages were the difference between what it was worth and what the United States sold it for and that number was never calculated in the litigation.

The time has come to finish what began decades ago. I urge you to move forward with H.R. 1272.