

**Statement of Chairwoman
Erma. J Vizenor**

**White Earth Band of Ojibwe
White Earth, Minnesota**

**Legislative Hearing on H.R. 1272
Before
The United States House Subcommittee
on Indian and Alaska Native Affairs**

March 1, 2012

Honorable Chairman Don Young and members of this Committee, I am Erma J. Vizenor, the Chairwoman of the White Earth Reservation Tribal Council. Thank you for the opportunity to provide testimony to your Committee with respect to H.R.1272.

H.R.1272 provides for the distribution of the judgment awarded to the Minnesota Chippewa Tribe in 1999 in Docket Nos. 19 and 188 in the United States Court of Federal Claims. The governing body of the Minnesota Chippewa Tribe has voted to distribute the judgment funds. On behalf of the White Earth Nation, the largest of the six bands that comprise the Minnesota Chippewa Tribe, I respectfully request that H.R.1272 be approved. The bill is sponsored by Congressmen Collin Peterson and Chip Cravaack, and the bill reflects the decision of the governing body of our sovereign tribal government.

The Unique Status of the Minnesota Chippewa Tribe

Each of the six constituent bands of which the Minnesota Chippewa Tribe is comprised is a separate federally-recognized Indian tribe. Additionally, the Minnesota Chippewa Tribe itself is a federally-recognized Indian tribe. The Minnesota Chippewa Tribe (“MCT”) was formed under the Indian Reorganization Act in 1936, and its constitution was approved by the Secretary of the Interior. The MCT revised its constitution in 1964, and such revised constitution was approved by the Secretary of Interior. Pursuant to the revised constitution, the governing body of the MCT is the Tribal Executive Committee (“TEC”). Each of the six constituent bands of the MCT has equal representation on the TEC with two seats, with a total of twelve members. The constitution authorizes the TEC to act by majority vote.

The Minnesota Chippewa Tribe Brought the Original Claims and Ultimately Settled the Litigation

The Minnesota Chippewa Tribe was the only plaintiff in Docket Nos. 19 and 188 before the Indian Claims Commission. After the Indian Claims Commission ceased to exist, the Tribe’s claims in these dockets were transferred to the United States Court of Federal Claims, where the Tribe remained the only plaintiff in the case. 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, finance and prosecute the litigation, and to negotiate, reach and approve the settlement agreement, were all made by the TEC on behalf of the Tribe. 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.

This is confirmed by the key steps leading to entry of the final judgment in the case.

First, on July 1, 1998, the TEC enacted Resolution 01-99, which approved the negotiated settlement of the Tribe’s claims. The vote was 6 to 3, with 10 members present.

Second, 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 parties submitted the TEC resolution, which reflected the 6 to 3 vote, to the Court in support of their motion.

Third, 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.”

Fourth, on May 26, 1999, the Court approved the settlement and directed the Clerk to enter judgment “pursuant to the [parties’] stipulation.” Judgment was entered for “plaintiff,” the Minnesota Chippewa Tribe.

Finally, 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.

The Tribe Approved a Distribution Plan for the Judgment Fund

The Tribe’s constitution authorizes the TEC to make decisions to administer, expend and apportion funds within the control of the Tribe. Each band of the TEC was fully involved in the many debates over a period of several years over the appropriate distribution of the judgment fund.

On October 1, 2009, the TEC enacted Resolution No. 146-09, which approved a plan to distribute the Tribe’s judgment funds and requested Congress to authorize the distribution in the manner described. The resolution was approved by five of the six bands, and reflects the carefully considered and legally binding decision of the Tribe. H.R.1272 would authorize the distribution of the Tribe’s judgment fund in accordance with the Tribe’s decision.

Federal Law Requires that Congress Enact Legislation to Distribute the Judgment Fund

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. The Secretary did not submit a proposed judgment distribution plan to Congress by the statutory

deadline. Because the Secretary failed to do so, Congress must now enact a statute providing for the distribution of the judgment fund.

H.R.1272 Should be Passed

The Minnesota Chippewa Tribe has patiently pursued our claims arising under the Nelson Act of 1889. We have endured the nearly 60 years from the time the claims were filed and the judgment funds are still not distributed. The governing body of the MCT has voted on the proper distribution of our judgment fund. On behalf of the White Earth Nation I respectfully request that you enact H.R.1272, which will permit the decision of the sovereign governing body of the Minnesota Chippewa Tribe to be carried out.

Mii gwetch