

Committee on Resources, Full Committee

- - Rep. James V. Hansen, Chairman

U.S. House of Representatives, Washington, D.C. 20515-6201 - - (202) 225-2761

Witness Statement

**TESTIMONY OF THE HONORABLE BOBBY WHITEFEATHER, CHAIRMAN
RED LAKE BAND OF CHIPPEWA INDIANS TRIBAL COUNCIL
Before the House Committee on Resources
Hearing on H.R. 701, the Conservation and Reinvestment Act (CARA)
June 20, 2001**

Mr. Chairman, I thank you and the other distinguished members of the Committee for this opportunity to provide testimony on behalf of the Red Lake Band of Chippewa Indians, concerning H.R. 701, the Conservation and Reinvestment Act (CARA) legislation. The Red Lake Band is a Native American Indian tribal government recognized by the United States government.

Red Lake and, I believe it is safe to say, most of the 561 federally-recognized Indian tribes across the country, strongly support CARA and the lasting benefits it will provide for conservation and future generations of Americans. I thank this Committee and the Congress for recent improvements made to CARA with respect to tribal government participation, most notably the 2.25 % proportional funding share provision included within Title III. I also thank the House Appropriations Committee for retaining \$5 million of President Bush's proposed \$10 million FY 2002 tribal allocation under the Land and Water Conservation Fund (LWCF) state grant program. These actions signal a recognition by the Administration and the Congress of the great need tribes have for conservation funding, and I am very pleased to see these improvements.

The enactment of CARA, and the direct participation by tribes in CARA-supported programs, is absolutely critical to Indian tribes. Like states, tribes have governmental responsibilities for the conservation of fish, wildlife, and other resources on their lands. Like states, tribes regulate hunting and fishing and gathering on their lands. Like states, tribes would receive critically needed conservation funding under CARA. But unfortunately, when CARA died late last year and CARA "Lite" was enacted, tribes were completely shut out from the CARA Lite conservation funding, unlike states and local governments.

CARA Lite, as you know, was enacted as a new Title VIII, Land Conservation, Preservation and Infrastructure Improvement to the Fiscal Year 2001 Interior Appropriations Bill, H.R. 4578. To our dismay, virtually none of the tribal allocations from either the House or Senate versions of CARA last year were included in CARA Lite, leaving tribes with nothing for their conservation responsibilities. After an additional \$50 million was added for wildlife conservation to Sections 901 and 902 of Title IX, Wildlife, Ocean and Coastal Conservation in the Fiscal Year 2001 Commerce, Justice, State, and Judiciary Appropriations (CJS) bill, tribes were further shocked to discover that, at the last minute during the final House-Senate conference, the tribal allocation percentage was dropped, leaving tribes as technically eligible to receive funds but with no allocation. These actions represented significant blows to tribal conservation efforts after years of cooperative effort in support of the campaign for CARA.

My testimony today will focus on CARA Titles II, III, and VI, as they contain provisions of critical concern to tribes. I will suggest minor modifications which would make major improvements to these titles. But first I want to provide some background information about the Red Lake Nation and our Reservation, information which I believe will assist you in judging the merits of our requests.

Red Lake People and Resources

Red Lake is a relatively large Tribe with 9,300 members. Our 841,000 acre Reservation, located in northwestern Minnesota, is held in trust for the Tribe by the United States. While it has been diminished in overall size, our Reservation has never been broken apart or allotted to individuals. Nor has our Reservation ever been subjected to the criminal or civil jurisdiction of the State of Minnesota. Consequently, we have a relatively large land and water area over which the Tribe exercises exclusive governmental authority and control in conjunction with the United States.

Red Lake Band members' lives center around a seasonal cycle of reliance on natural resources. Fishing, hunting, and gathering activities are as vital to our survival today as they were 200 years ago. Time has certainly changed some aspects of this cycle. The desires of Band members to purchase modern-day products and goods has led to a resource-based cash economy of fishing and logging that began early in the 20th century and continues today. However, concerns about resource depletion in recent years have led us to seek out economic diversification.

Due in part to our Reservation's location far from centers of population and commerce, we have few jobs available in the private sector economy. While unemployment rates throughout America have dropped to historically low levels, our unemployment rate remains at an outrageously high level of 60%. The lack of good roads, communications, and other necessary infrastructure continues to hold back economic development and job opportunities. We have had limited success with gaming, but our remote location prevents the type of often-cited, large-scale gaming operations run by a small handful of tribes throughout America. The limited gaming revenues we do receive are devoted to human-services programs like meals for the elderly, our nursing home, and community-based activities devoted to meeting the pressing needs of people who live on the edge of survival on our impoverished Reservation.

Relatively speaking, our resources are vast and important to many people who are our neighbors beyond our Reservation borders. The resources for which the Red Lake Band, not the State of Minnesota, is responsible, include 350,000 acres of forests, 471,000 acres of wetlands (including forested wetlands), 237,000 acres of lakes, and 55 miles of rivers and streams. Title to all of these resources is held in trust status for the benefit of the Red Lake Band by the United States. Many of our resources are truly unique.

Our Reservation includes much of northern Minnesota's patterned peatlands, which have received worldwide scientific recognition because ours is the largest peatland resource outside of Alaska and because many rare and endangered species reside in these areas.

Our Tribe's natural namesake, the Red Lake, is the sixth largest natural, freshwater lake in the United States. While it has never been included as a sixth Great Lake, Red Lake is "greater" in size than Lake Champlain which, with some controversy, was temporarily bestowed that status several funding cycles ago.

Until just recently, Red Lake was home to the largest and longest continuously operated freshwater commercial fishery in America and provided important employment for some 500 reservation families. Unfortunately, similar to the fate of commercial fisheries the world over, stocks of walleye, which were the

principal commercial Red Lake species, collapsed in the mid-1990s forcing the Tribe to close our fishery for the first time since the beginning of World War I. The Tribe has since implemented an aggressive recovery plan in conjunction with the federal government and the State of Minnesota. Ours is the largest freshwater fish species recovery program in America today.

I have provided the above information to help you understand that we have been blessed with abundant natural resources, and the conservation and perpetuation of these resources is extremely important to my people and their direct survival needs.

Resource Management Funding Inequities

Our tribal resources are managed by a small but dedicated group of biologists, technicians, and wardens. Our relatively meager natural resources funding comes primarily from Bureau of Indian Affairs (BIA) programs. Unfortunately, recent federal budget cuts in BIA natural resource funding have diminished our resource management capacity by 20% in just the last five years. We have attempted to make up the difference by seeking outside grant funds, but the opportunities are very limited, especially for fish and wildlife conservation. Still, we do the best we can with the limited funds we have.

For the most part, tribes have been left out of authorizing language for federal conservation programs, even though these programs were enacted to conserve all of America's resources, and even though tribes are responsible for managing more than 2.25% of the land resource base within the United States. For example, tribes cannot access substantial funding sources like the Federal Aid in Fish and Wildlife Restoration Acts of 1950 and 1937. These acts levy excise taxes on hunting and fishing equipment, and allocate the proceeds (about \$450 million annually) to the fifty states, territories, and the District of Columbia for fish and wildlife programs. Tribal members who hunt and fish pay these excise taxes just like all Americans, but none of these revenues come back to tribes to fund programs which benefit fish and wildlife on that portion of America under tribal jurisdiction.

Tribal Request to Remove Prohibition on Land Acquisition in CARA Title II

I thank the Committee for including tribes as an eligible entity to receive funds under the Land and Water Conservation Fund (LWCF), which has, as its major focus, the purchase of land for conservation. But a prohibition in Title II of H.R. 701 that applies only to Indian tribes would prevent tribes from acquiring land for conservation purposes. This prohibition makes no sense, because any land acquired with LWCF funds must be used only for public outdoor recreation uses. I ask that the prohibition on tribal land acquisition be removed, and that tribes be subject to the same benefits and responsibilities as the states and the territories.

I also request that language be included requiring the Secretary of Interior to consult with tribes in the development of the competitive grant program for allocation of funds to tribes under this title, consistent with the government-to-government relationship.

Finally, I ask that the maximum amount available to a single tribe in any year be limited to 5% rather than the 10% currently used in the bill, in order to ensure that more of these funds reach more tribal programs. In Attachment A, we have provided proposed amendment language for Title II which addresses the concerns I have raised.

Tribal Access to CARA Title III

I thank the Committee for including the 2.25% allocation in Title III of H.R. 701. Tribes have long proposed that on the basis of fairness and equity, we should receive 2.25% of new conservation funding, including the new subaccount to be created by Title III in the federal aid to wildlife restoration fund. This 2.25 percentage is based on the ratio of Indian trust land to the rest of the land area of the United States. No Federal Aid funds now go towards fish and wildlife conservation efforts on these lands for which tribes are responsible. I am grateful that this Committee has recognized the inequities and included a 2.25% allocation in Title III.

I appreciate the Committee's effort to find statutory language by which the 2.25% share can be fairly allocated among the various tribes. We believe statutory distribution language is necessary to ensure a reliable base of core funding that Indian tribes can count upon from year to year. The present language would divide the funds among tribal conservation programs on the basis of 1/3 land and 2/3 population. As the Committee further deliberates on the CARA provisions, we ask that you give some consideration to amending this provision so as to allocate funds on the basis of 2/3 land and 1/3 population. Obviously, wildlife conservation funding needs rise incrementally in relation to the amount of trust land acreage a tribe is responsible for managing. Therefore it makes sense to have greater weight apply to the trust land acreage of a tribe, while still including a factor to reflect that tribe's population of users. We also ask that language be added to clarify that funds allocated under this section, upon application by a tribe, shall be used by a tribe only to support an established wildlife conservation and restoration program or to develop a wildlife conservation plan or strategy. Finally, since some tribes may not apply or develop conservation programs, I ask that language be added which specifies that any of the 2.25% allocation which remains undistributed to tribes near the end of the fiscal year should be redistributed on a proportional basis to those tribes who received distributions that year. In Attachment B, we have provided proposed amendment language for Title III to address these issues.

Keep CARA Title VI Intact

Title VI of H.R. 701, Federal and Indian Lands Restoration, provides up to \$200 million annually for a coordinated program on federal and Indian lands to restore degraded lands, protect resources that are threatened with degradation, and protect public health and safety. Of this amount, 60% would be allocated for Department of Interior lands, 30% would be allocated for Department of Agriculture lands, and 10% would be allocated for Indian lands. This allocation formula is based on acreage.

Like the federal government and the states, tribes have an immense wealth of natural resources under their management and care. However, tribes lag far behind the federal government and the states in our capacity to protect these resources. The development of this capacity takes time and dedicated financial resources, and tribes have long been disadvantaged in this area.

The \$20 million allocated to tribes under this title is modest when you consider that it must be spread among more than 550 tribal governments and 56 million acres of Indian trust land. However, it does represent a critically important source of funds, and I strongly urge you to ensure that Title VI is kept intact in the final CARA legislation.

We do ask that the maximum amount available to a single tribe in any year be limited to 5% rather than the 10% cap used in the current version of CARA. We also ask that language be included in Title VI requiring the Secretary of Interior to consult with tribes in the development of the competitive grant program for allocation of funds to tribes, again, to reflect the government-to-government relationship. In Attachment C, we have provided a proposed amendment that would do this.

Conclusions

The protection of America's natural resources is of immense importance. CARA represents perhaps the greatest opportunity ever to provide a lasting legacy of resource preservation for future generations of Americans. CARA is consistent with the First Americans' view of protecting Mother Earth.

Because tribes were left out of Title VIII, Land Conservation, Preservation and Infrastructure Improvement to the Fiscal Year 2001 Interior Appropriations Bill, H.R. 4578, our hope lies in the enactment of CARA this year. If tribes are to preserve our resources and our way of life, we need access to funds in a manner similar to other agencies charged with the protection of America's land and water. I sincerely hope that you, and this Committee's colleagues in the Congress, will take my words to heart, and do the right thing on behalf of America's Indian tribes.

I have attached to this testimony proposed amendment language for CARA Titles II, III and VI, which addresses the issues I have raised today. Also attached is further background information which justifies our request. I would be pleased to provide any additional information you need. I thank you for the opportunity to present testimony today on behalf of the Red Lake Band of Chippewa Indians.

Attachment A

Tribal Amendments Proposed to CARA Title II -- H.R. 701

H. R. 701 (As introduced in the House of Representatives on February 14, 2001) (GPO's PDF version)

On page 36, line 7, just after "...rule." insert:

"The Secretary shall develop the competitive grant program in consultation with Indian tribes and with the active participation of a joint, federal and tribal workgroup, composed of a BIA and a tribal representative from each BIA region."

On page 36, line 12, strike "10" and replace with "5"

On page 36, line 14, strike "Funds"

On page 36, strike lines 15 through 18

Attachment B

Tribal Amendments Proposed to CARA Title III -- H.R. 701

H. R. 701 (As introduced in the House of Representatives on February 14, 2001) (GPO's PDF version)

On page 45, line 12, strike "not more"

On page 45, line 13, strike "than"

On page 45, line 14, strike "1/3" and replace with "2/3"

On page 45, line 18, strike "2/3" and replace with "1/3"

On page 45, Insert at the end of line 24, the following two new sentences:

"Such amounts may be used by a tribe only to support or develop a wildlife conservation or restoration program or plan, and, upon application, shall be distributed to tribes before July 1st of each fiscal year. Should any of the 2 1/4 percent apportionment remain undistributed on July 1st of each fiscal year, such remainder shall be distributed on a proportional basis to those tribes previously receiving distributions that year under this subsection."

Attachment C

Tribal Amendments Proposed to CARA Title VI -- H.R. 701

H. R. 701 (As introduced in the House of Representatives on February 14, 2001) (GPO's PDF version)

On page 59, at the end of line 2, insert:

"The Secretary shall develop the competitive grant program in consultation with Indian tribes and with the active participation of a joint, federal and tribal workgroup, composed of a BIA and a tribal representative from each BIA region."

On page 59, line 5, strike "10" and replace with "5"

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