TESTIMONY OF REPRESENTATIVE COLLIN PETERSON

ON H.R. 2036 and H.R. 3669

AT THE HEARING OF THE U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON NATURAL RESOURCES

JUNE 5, 2008

Chairman Rahall, Ranking Member Young, and members of the Committee, thank you for this opportunity to discuss the distribution of the Nelson Act settlement judgment fund.

As you know, nine years ago, the United States Court of Federal Claims made an award of $20 million to the Minnesota Chippewa Tribe. The award was to help compensate the descendants of a different entity, the Chippewa Indians of Minnesota, for the taking of land and the improper valuation of timber under the Nelson Act of 1889. All of that money has since been tied up and unavailable to the people who need it. Now, because of the Indian Judgment Fund Act of 1983, Congress must pass legislation detailing how the funds should be distributed among the six bands that make up the Minnesota Chippewa Tribe.

My position has always been that Congress should not take an active role in this issue. I believe that all of the Bands should come to an agreement on how to allocate the money and only then should Congress get involved. Unfortunately, after nine years the Bands are still unable to agree. Although I am dismayed that a deal has not yet been worked

out, I still think a compromise of some sort is the only realistic way to get a bill through Congress.

That being said, the Department of the Interior has properly followed the process laid out in the Indian Judgment Funds Act. They have recommended a distribution formula and in my mind it is a fair one. In a 2001 "Results of Research Report," the Department of the Interior concluded that had the Chippewa Indians of Minnesota received just compensation for their land and timber in the first place, the money would have been distributed per capita under the Nelson Act. This identification of the method that would have been used to allocate the money led the Department of Interior to conclude that the current judgment fund should be divided pro rata among the six bands based upon the number of currently enrolled tribal members. Equally important, the report said that equally splitting the fund six-ways, without the consent of every band, is unjust and would "give preferential treatment to the membership of four smaller bands at the expense of the membership of the two larger bands." I agree with these findings and so when the Department of the Interior sent draft legislation to implement its findings to Congress, I introduced it as H.R. 2306, the Minnesota Chippewa Tribe Judgment Fund Distribution Act of 2007.

Some have alleged that the 2001 "Results of Research Report" and the pro rata distribution formula would step on the toes of the Minnesota Chippewa Tribe's sovereignty as an Indian tribe. These critics argue that the Minnesota Chippewa Tribe's Tribal Executive Committee has already passed a resolution, "Resolution 40-00,"

indicating how it wishes to divide the money. But "Resolution 40-00" did not have the support of all six bands and therefore was not consented to by every Indian entity involved in this settlement. The argument that all that matters is the voice of the Tribal Executive Committee and not the concerns of the constituent bands goes against Congress' clear intent in the Indian Judgment Funds Act, which was to help ensure the fair distribution of funds between two or more "beneficiary entities," as well as to attempt to find an allocation plan that every Indian "entity" has agreed upon.

The argument that the individual objections of the Bands do not matter also fails to take into account the government-to-government status the United States federal government has with each of the Minnesota Chippewa Tribe's six constituent bands. Although the Minnesota Chippewa Tribe is the umbrella organization, all six bands are also federally recognized Indian entities. Each of the six bands, along with the Minnesota Chippewa Tribe, is "acknowledged to have the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their government-to-government relationship with the United States," according to the Department of the Interior. Each of the six bands also participates individually in the Title IV Self-Governance program—something the Minnesota Chippewa Tribe does not. These facts make it very clear that from the perspective of the federal government, the Minnesota Chippewa Tribe is an Indian tribe made up of six Indian tribes. So when we talk about the sovereignty of Indian tribes, it is important to remember that it is not only the wishes and views of the Minnesota Chippewa Tribe that must be respected, but the wishes and views of all of its component bands as well. With these thoughts in mind, I am convinced that any

distribution formula should, if at all possible, have the consent of all six bands. I cannot and will not support a six-way equally split distribution formula—as proposed in Resolution 40-00—that goes against the wishes of the most populous bands in the Minnesota Chippewa Tribe.

Although I agree with the conclusions expressed in the "Results of Research Report," I think it is high time that this fund finally be allocated and put to work; it is time for a compromise. If we resolve this issue now, OMB has said that the Bands could put this money to use this year; funding is desperately needed for things like schools, health care facilities and infrastructure improvements. On the other hand, if the six bands remain unable to agree, Congress will more than likely not act and the money will continue to sit in a bank account in Washington, doing no good for anyone.

I urge the six bands to go back to the drawing board and work toward an agreement. It makes no sense for anyone to draw a hard line position when, judging from experience, no hard line position has any chance of succeeding. It is time for everyone to come together and find an agreement that maybe not everyone will love, but everyone can benefit from. Thank you.