TESTIMONY OF HON. ERMA VIZENOR, CHAIRWOMAN
THE WHITE EARTH BAND OF CHIPPEWA INDIANS

ON H.R. 2036 and H.R. 3669
A BILL TO PROVIDE FOR THE USE OR DISTRIBUTION OF JUDGMENT FUNDS
PURSUANT TO MINNESOTA CHIPPEWA TRIBE v. UNITED STATES,
DOCKET NOS. 19 AND 188

AT THE HEARING OF THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES

JUNE 5, 2008

Mr. Chairman, Ranking member Young, members of the Committee, I would like to thank you for this opportunity to present the views of the White Earth Band of Chippewa Indians, a sovereign federally recognized Indian Tribe, to present our views on the legislation introduced by Congressman Peterson, H.R. 2306, for the apportionment of funds awarded under the Nelson Act Claims litigation.

I would like to take this opportunity to make several very important points. The first is an explanation of why the BIA Results of Research and the Bill, HR 2306, is the correct disposition of the Nelson Act funds; second, I would like to address what we believe are the comparative equities of the two Bills that are the subject of this hearing, and finally we would like to share our thoughts on the main objection that we have heard to H.R. 2306.

The BIA Results of Research recognizes the Historical background and context of this Settlement. At the time of the Nelson Act, there was no Minnesota Chippewa Tribe. The Anishinabe or Ojibwe people of Minnesota inhabited lands, and organized Bands, in locations throughout the state. Significant land and timber resources were stolen from our people under the authority of Nelson Act and the discredited policy of allotment in the early part of the last

century. Around this time, most of the Ojibwe living throughout the state were removed to the White Earth Reservation. This includes many of the residents of the current six reservations, and other Bands that no longer exist. Essentially at this time, the federal governments shuffled the deck of our people. In that shuffle, the majority of Ojibwe who suffered under the Nelson Act were relocated to White Earth.

Under the Indian Reorganization Act of 1934, the federal government, in effect, re-dealt the Ojibwe population in Minnesota, except those Ojibwe enrolled in Red Lake, into six separate governments representing the then existing settlements under a single Constitution, The Minnesota Chippewa Tribe. The membership of the individual persons in each federally recognized Band was based on the Reservation on which they resided at that time. As a result of removal, the majority of the current Minnesota Chippewa Tribe then resided on the White Earth Reservation. Due to this historical accident, White Earth remains the largest Band of the Minnesota Chippewa Tribe and therefore represents the greatest number of heirs of the Indians affected by the Nelson Act.

The six sovereign governments of the Minnesota Chippewa Tribe have grown stronger, and more separate with the passage of time. Each reservation Band is exclusively responsible for the health and welfare of its members. If there are unmet needs on the White Earth Reservation it is not the responsibility of another MCT Band, or the Tribe itself to address that need. We are each sovereign over our own lands and people. Each Band is federally recognized as a sovereign American Indian Tribe, and each Band has a separate Self-Governance compact with the United States government. Therefore, in 2008, the proper governmental entity to administer the

settlement for the heirs of the Indian people affected by the abuses of the Nelson Act in 1914 are the Bands as presently constituted, or if you will, as they were "re-dealt" in 1934.

Any apportionment that simply divides the proceeds of the settlement in six equal amounts misrepresents the historical reality of our membership. The reasoning of the BIA in its Report of Research, and as presented to the Committee as H.R. 2306 is clear, accurate, and has a firm rational basis. The basis for the apportionment, use and distribution must take into account, as the BIA Results of Research does, that while all members of each Band are members of the MCT, not all members of the MCT are members of each Band. The Nelson Act Settlement was intended for damages to all Chippewa Indians in Minnesota, except those enrolled in Red Lake. The value of that settlement should be used for all these Indian beneficiaries equally. Any other manner of division would offend the spirit of the Settlement Act, and the fundamental notions of fairness and equity.

The one sixth split essentially argues that the one thing held in common among all MCT members should be valued very differently. Under the H.R. 3669 plan, the "value" of the settlement to members of separate Bands would vary wildly. In the most extreme case, Grand Portage members would get more than ten times the amount of the settlement that a member at White Earth would receive. We therefore respectfully disagree with the apportionment plan proposed under H.R. 3669. The result of that plan would be to give 75% of the proceeds of the Settlement to 25% of the beneficiaries. We frankly do not believe that such a finding would withstand judicial scrutiny.

As a final point, I would like to point out to the Committee that other Bands of the MCT may object that H.R. 2306 disregards "tribal law." If this is indeed the case, which we do not

believe it is, then tribal law is uncommonly unfair. But we urge the Committee that this objection to H.R. 2306 is irrelevant. The BIA doe not prepare its Reports of Research under tribal law; it is acting under federal law. Likewise, Congress is exercising its plenary federal authority in passing an apportionment bill. Federal law requires a process for apportionment, use and distribution of federal settlement funds when there is a disagreement among beneficiary Tribes. It is precisely because "tribal" law is not working that the federal government, the administration at the direction of Congress, is stepping in. This is allowable because this is a distribution of federal settlement funds. These funds do not become "tribal" in nature until after they are distributed according to, and under, federal law, as enacted by the Distribution of Judgment Funds Act.

In sum, we believe the only course of action consistent with fairness, equity and due process is for the Committee is to approve H.R. 2306. Thank you again for this opportunity to speak with you, and your sharing your very valuable time with us today. Mii Gwitch.