

**TESTIMONY OF
LAWRENCE S. ROBERTS
PRINCIPAL DEPUTY ASSISTANT SECRETARY - INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
UNITED STATES HOUSE
COMMITTEE ON NATURAL RESOURCES, SUBCOMMITTEE ON INDIAN AND
ALASKA NATIVE AFFAIRS
ON
H.R. 3608,
THE GRAND PORTAGE BAND PER CAPITA ADJUSTMENT ACT**

JULY 29, 2014

Good Afternoon Chairman Young, Ranking Member Hanabusa and members of the Subcommittee. My name is Lawrence Roberts. I am the Principal Deputy Assistant Secretary for Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to testify on H. R. 3608, the "Grand Portage Band Per Capita Adjustment Act." The Department supports H.R. 3608.

Background

In 1854, the Chippewa of Lake Superior entered into a treaty with the United States whereby the Chippewa ceded to the United States ownership of their lands in northeastern Minnesota. These lands are the so-called "1854 cede territory." Article 11 of the 1854 Treaty provides: "...And such of them as reside in the territory hereby ceded, shall have the right to hunt and fish therein, until otherwise ordered by the President." The Chippewa of Lake Superior who reside in the ceded territory are the Fond du Lac, Grand Portage and Bois Forte Bands.

In 1985, the Grand Portage Band of Lake Superior Chippewa Indians (Band) sued the State of Minnesota in federal court claiming the 1854 Treaty gave the Band the right to hunt and fish in the ceded territory free of State regulation. Up until that time, the State had applied its hunting and fishing laws in the ceded territory to Indians and non-Indians alike. The Band entered into an agreement with the State in 1988 whereby the State makes an annual payment of \$1.6 million to the Band.

The funds in question are not judgment funds awarded by the Court of Claims, but rather are funds paid by the State of Minnesota pursuant to its agreement with the Grand Portage Band of Chippewa in 1988. Because the funds received under the Agreement are directly related to the Band's forbearance of its treaty rights, they were addressed in the 2000 Amendment to 25 U.S.C. 1407(4) proposed by the late Senator Paul Wellstone of Minnesota. Wellstone introduced a bill in 1999 (S.1838) to exempt certain per-capita income derived from an agreement between the Bois Forte Band of Chippewa Indians, the Grand Portage Band of Chippewa Indians, and the State of Minnesota. The 1999 bill was referred to the Senate Indian Affairs Committee, but did not proceed as a standalone bill.

Though the funds at issue are not judgment funds, 25 U.S.C. 1407 (4) treats the agreement funds as judgment funds and relieves those funds from being considered as income or resources. The statute prohibits the funds from the State of Minnesota to the Band paid under the agreement for being used as a basis of denying or reducing financial assistance or other benefits to which a household or member would otherwise be entitled to under any federal or federally-assisted program. It is unclear why the Grand Portage Band was not included in Subsection 4 in the 2000 Amendment passed by Congress since the Band has the identical agreement with the State that the Bois Forte Band of Chippewa has. The Department can only presume the omission was inadvertent and remedying this omission is appropriate.

H.R. 3608

H.R. 3608 would amend the Act of October 9, 1973 (P.L. 93-134) concerning taxable income to members of the Grand Portage Band of Lake Superior Chippewa Indians. H.R. 3608 would expressly extend the tax exempt status of payments made by the State of Minnesota to the Band under the agreement of 1988 between the Band and the State of Minnesota resulting from the settlement agreement from the 1985 lawsuit against the State of Minnesota over the Treaty of September 30, 1854 (10 Stat. 1109). H.R. 3608 does not appear to diminish or remove any status enjoyed by Bois Forte Band of Chippewa Indians and provides tax exempt status to payments made under the 1988 Agreement between the Band and the State of Minnesota to the members of the Grand Portage Band of Lake Superior Chippewa Indians.

Conclusion

This concludes my prepared statement. I will be happy to address any questions the Subcommittee may have.