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H.R. 2176, TO PROVIDE FOR AND APPROVE THE SETTLEMENT OF CERTAIN LAND CLAIMS OF THE BAY MILLS INDIAN COMMUNITY; AND H.R. 4115, TO PROVIDE FOR AND APPROVE THE SETTLEMENT OF CERTAIN LAND CLAIMS OF THE SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS.

LEGISLATIVE HEARING

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

Wednesday, February 6, 2008

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LEGISLATIVE HEARING ON H.R. 2176, TO PROVIDE FOR AND APPROVE THE SETTLEMENT OF CERTAIN LAND CLAIMS OF THE BAY MILLS INDIAN COMMUNITY, AND H.R. 4115, TO PROVIDE FOR AND APPROVE THE SETTLEMENT OF CERTAIN LAND CLAIMS OF THE SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS.

Wednesday, February 6, 2008
U.S. House of Representatives
Committee on Natural Resources
Washington, D.C.

The Committee met, pursuant to call, at 2:01 p.m. in Room 1324, Longworth House Office Building, Hon. Nick J. Rahall, [Chairman of the Committee] presiding.

Present: Representatives Rahall, Young, Kildee, Abercrombie, Christensen, Napolitano and Heller.

STATEMENT OF THE HONORABLE NICK J. RAHALL, II, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

The CHAIRMAN. The Committee on Natural Resources will come to order. The Committee is convening today as one big, happy family to hold a hearing on H.R. 2176 introduced by our dear friend and colleague, Bart Stupak; and H.R. 4115, sponsored by the Dean of the House of Representatives, the very distinguished, honorable, capable and very dear friend, Chairman John Dingell.

These bills seek to settle certain land claims of the Bay Mills Indian Community and the Sault Ste. Marie Tribe of Chippewa Indians in the State of Michigan. The genesis of these bills date back to 1807 when the Chippewa ceded much of what is now the State of Michigan in a treaty with the Governor of the Michigan Territory.

Subsequent treaties ensued in 1817, 1820, 1836 and 1855. In the case of both the Bay Mills and the Sault, the 1855 Treaty of Detroit set aside land to be reserved for their use. Shortly after that treaty was concluded, the United States Land Office allowed that very land to be sold to non-Indian speculators.

Hence began a 153 year odyssey before a settlement agreement was entered into by Michigan, the Bay Mills and the Sault, and in doing so cleared the land title cloud that has hung over the residents of the Charlotte Beach area. Under the agreement with the Bay Mills, which is supported by the current Governor of Michigan, Jennifer Granholm, the tribe would relinquish their land claims at

Charlotte Beach and instead would be able to take into trust land at Port Huron, Michigan.

Under the agreement with the Sault Ste. Marie, which is also supported by Governor Granholm, the tribe would relinquish their land claims at Charlotte Beach and instead would be able to take into trust lands at either Flint, Monroe or Romulus, Michigan. In this regard, let me state that there is no administrative process for these tribes to go through.

Only the U.S. Congress can extinguish Indian title to land. We are not setting any precedent here as Congress has on several occasions enacted tribal land claim settlement legislation. Now, I have set out the facts, the historical record regarding these two tribes and their Charlotte Beach land claims.

I do believe that the deliverance of justice is on the side of these two tribes and the legislation that we are hearing today. With that noted, there are ramifications to the enactment of these bills beyond delivering justice to these two tribes, and I look forward to hearing all those views during this hearing.

Before recognizing our Ranking Minority Member, Mr. Heller, I do want to recognize a former chairman of our committee, then called the Resources Committee, who is with us today, Mr. Richard Pombo, and a former chief of staff on the committee, Steve Ding. Welcome, gentlemen. We are glad to have you in the audience today.

I now recognize the acting Ranking Member, Mr. Heller.

[The prepared statement of Mr. Rahall follows:]

Statement of The Honorable Nick J. Rahall, II, Chairman, Committee on Natural Resources

The Committee on Natural Resources is convening today to hold a hearing on H.R. 2176, introduced by our colleague Bart Stupak, and H.R. 4115, sponsored by the Dean of the House of Representatives, the distinguished Chairman John Dingell.

These bills seek to settle certain land claims of the Bay Mills Indian Community and the Sault Ste. Marie Tribe of Chippewa Indians in the State of Michigan.

The genesis of these bills dates back to 1807, when the Chippewa ceded much of what is now the State of Michigan in a treaty with the Governor of the Michigan Territory.

Subsequent treaties ensued in 1817, 1820, 1836 and in 1855.

In the case of both the Bay Mills and the Sault, the 1855 Treaty of Detroit set aside land in what is now known as Charlotte Beach for their exclusive use.

However, shortly after that treaty was concluded, the United States Land Office allowed that very land to be sold to non-Indian speculators.

Hence began a 153 year odyssey that the legislation before us seeks to resolve.

The two bills we are hearing today would implement a settlement agreement entered into by the Governor of Michigan, the Bay Mills and the Sault, and in doing so, clear the land title cloud that has hung over the residents of the Charlotte Beach area.

Under the agreement with the Bay Mills, which is supported by the current Governor of Michigan, Jennifer Granholm, the tribe would relinquish their land claims at Charlotte Beach and instead would be able to take into trust land at Port Huron, Michigan.

Under the agreement with the Sault Ste. Marie, which is also supported by Governor Granholm, the tribe would relinquish their land claims at Charlotte Beach and instead would be able to take into trust land at either Flint, Monroe or Romulus, Michigan.

In this regard, let me state that there is no administrative process for these tribes to go through. Only the U.S. Congress can extinguish Indian title to land. And we are not setting any precedent here, as Congress has on several occasions enacted tribal land claim settlement legislation.

I have set out the facts, the historical record, regarding these two tribes and their Charlotte Beach land claims. I do believe that the deliverance of justice is on the side of these two tribes, and the legislation we are hearing today.

With that noted, certainly there are ramifications to the enactment of these bills beyond delivering justice to these two tribes, and I look forward to hearing all views during this hearing.

STATEMENT OF THE HONORABLE DEAN HELLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. HELLER. Thank you, Mr. Chairman. I want to begin by thanking you for agreeing to have hearings on these bills and proceed with regular order. As one of those who requested this procedure, I appreciate the consideration. As we know, H.R. 2176, H.R. 4115 would settle two Native American land claims in Michigan for tribes currently with claims in northern portions of the state.

Those two tribes want land taken into trust for gaming further south, about 300 miles away. I have real concerns that these bills have significant negative effects on existing law already in need of reform. Off-reservation Indian gaming has become a highly controversial matter. These two bills sharply divide members of both parties in Michigan, divide local Native American tribes, and divide this committee and other members of the House.

Finally, these bills circumvent the existing procedure in place to approve of tribal gaming and trample states' rights on this issue. For all of these reasons, they are bad bills and should be opposed. Coming from Nevada I obviously support gaming including Michigan's right to have gaming so its expansion is not the issue.

The issue is off-reservation gaming is highly controversial and divisive for communities, and what we do in this committee has clear national repercussions. Circumventing existing laws on the matter IGRA has far reaching consequences. Make no mistake, passing these bills is circumventing IGRA.

The unprecedented congressional approval of off-reservation gaming will set off shockwaves across the Nation and among tribes. Dozens of tribes with no gaming facilities will see this move as yet another green light to set up in nearly any economically viable location. Other tribes with gaming on historical land may want a new location for their facility in order to remain competitive.

The door to off-reservation gaming has been opened wider with each passing year, and these bills kick it open for a nationwide explosion of Indian casinos in nearly any location. Numerous states have already fought off this off-reservation matter. This committee has done work to reform this law in the past and should do so again instead of continuing the status quo.

IGRA is now 20 years old, and perhaps we should take a good look at it before passing these bills. IGRA wisely allows for states to take the lead on these issues, for tribal state compacts to be negotiated and for the Department of the Interior and BIA to play proper oversight roles. These bills wipe all that away without any close understanding of Michigan law.

I would object to this committee's trampling Nevada law, as I think most members would of their own states. The mission delega-

tion is deeply divided over this issue and not along party lines. Why should we force something so divisive without more time to address it without a closer understanding of state law?

I understand House Judiciary Chairman Conyers says the Michigan law is being ignored on this matter. Even the tribes in Michigan are divided. I join the members of this committee who support the rights of Native Americans including those rights under IGRA. Nevada has a number of casinos owned and operated in part or whole by tribes, but we are treating some differently than others by approving this reservation's shopping.

Additionally, the rights of the State of Michigan are clearly being circumvented as well. Michigan law is being trumped by the fact that we here in this committee are going to make law that should be set by the state as already set forth in IGRA. Approving these bills is de facto approving the gaming compacts for Michigan, documents we have not read or examined and which have had little or no discussion.

I find that hard to swallow. Is this committee prepared to do the oversight needed to grant gaming compacts? Nevada has procedures in place to ensure high ethical standards are used when granting gaming licenses, and I assume Michigan does as well. Are we going to assume that responsibility, that liability, those efforts on this issue in place of the State of Michigan?

I urge the defeat of these bills because they are simply bad policy in so many ways, are controversial matters that have not been vetted appropriately and they are divisive for tribes, our colleagues throughout Congress and many of our constituents.

Mr. Chairman, thank you, and I yield back.

The CHAIRMAN. The Chair thanks the gentleman from Nevada for his comments and recognizes the gentleman from Michigan, Mr. Kildee, the sponsor of one of the bills and a very valued member of our Committee on Natural Resources.

STATEMENT OF THE HONORABLE DALE E. KILDEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. KILDEE. Thank you, Mr. Chairman, and thank you for having this hearing. Mr. Chairman, I intend to support both H.R. 4115 and H.R. 2176 when the Committee marks them up next week. In the past, Mr. Chairman, I have stated my strong policy concerns with similar off-reservation gaming legislation, particularly when the land in question was far away from the existing reservation and on the ancestral treaty lands of another tribe.

The people of my home town of Flint, Michigan, have voted both against a casino in 1994 and for a casino in 2004. Mr. Chairman, even after the 2004 vote by the people of Flint, Michigan, in favor of a casino I expressed my policy misgivings about these measures in a letter to this committee in 2006.

However, there are several factors, both before and after my 2006 letter, that when taken together have led me to reconsider my position on these bills. First, in 2002, then Michigan Governor John Engler signed separate agreements between the Sault Ste. Marie Tribe and the Bay Mills Tribe in order to settle the disputed land claims near Charlotte Beach.

Second, in 2003, the Flint City Council approved a resolution supporting an Indian casino that was followed in 2004 by the people of Flint voting in favor of a citywide referendum to support bringing an Indian casino to Flint, Michigan.

Third, in November 2007, the present Governor of Michigan, Jennifer Granholm, amended and reaffirmed these agreements and has expressed strong support for these bills. Finally, as a congressman from Flint, Michigan, I have to consider the continued economic realities of my home town.

Therefore, in light of all these factors, particularly the reaffirmation of the settled agreement by Governor Granholm and Flint's continued economic difficulties, I have been moved to reconsider my position, and I will support these bills in committee and support these bills on the Floor.

I yield back the balance of my time, Mr. Chairman.

[The prepared statement of Mr. Kildee follows:]

Statement of Dale E. Kildee, a Representative in Congress from the State of Michigan

MR. CHAIRMAN, I INTEND TO SUPPORT BOTH H.R. 4115 AND H.R. 2176 WHEN THE COMMITTEE MARKS THEM UP NEXT WEEK.

IN THE PAST, I HAVE STATED MY STRONG POLICY CONCERNS WITH SIMILAR OFF-RESERVATION GAMING LEGISLATION, PARTICULARLY WHEN THE LAND IN QUESTION WAS FAR FROM THE EXISTING RESERVATION AND ON THE ANCESTRAL TREATY LANDS OF ANOTHER TRIBE.

THE PEOPLE OF MY OWN HOMETOWN OF FLINT, MICHIGAN HAVE VOTED BOTH AGAINST A CASINO [IN 1994] AND FOR A CASINO [IN 2004].

MR. CHAIRMAN, EVEN AFTER THE 2004 VOTE BY THE PEOPLE OF FLINT IN FAVOR OF A CASINO, I EXPRESSED MY POLICY MISGIVINGS ABOUT THESE MEASURES IN A LETTER TO THIS COMMITTEE IN 2006.

HOWEVER, THERE ARE SEVERAL FACTORS, BOTH BEFORE AND AFTER MY 2006 LETTER, THAT WHEN TAKEN TOGETHER, HAVE LED ME TO RECONSIDER MY POSITION ON THESE BILLS.

FIRST, IN 2002, THEN MICHIGAN GOVERNOR JOHN ENGLER SIGNED SEPARATE AGREEMENTS BETWEEN THE SAULT STE. MARIE TRIBE AND THE BAY MILLS TRIBE IN ORDER TO SETTLE THE DISPUTED LAND CLAIMS NEAR CHARLOTTE BEACH.

SECOND, IN 2003, THE FLINT CITY COUNCIL APPROVED A RESOLUTION SUPPORTING AN INDIAN CASINO. THAT WAS FOLLOWED IN 2004 BY THE PEOPLE OF FLINT VOTING IN FAVOR OF A CITY-WIDE REFERENDUM TO SUPPORT BRINGING AN INDIAN CASINO TO FLINT.

THIRD, IN NOVEMBER 2007, THE PRESENT GOVERNOR, JENNIFER GRANHOLM, AMENDED AND REAFFIRMED THESE AGREEMENTS AND HAS EXPRESSED STRONG SUPPORT FOR THESE BILLS.

FINALLY, AS THE CONGRESSMAN FROM FLINT, MICHIGAN, I HAVE TO CONSIDER THE CONTINUED ECONOMIC REALITIES OF MY HOMETOWN.

THEREFORE, IN LIGHT OF ALL OF THESE FACTORS, PARTICULARLY THE REAFFIRMATION OF THE SETTLEMENT AGREEMENTS BY GOVERNOR GRANHOLM AND FLINT'S CONTINUED ECONOMIC DIFFICULTIES, I HAVE BEEN MOVED TO RECONSIDER MY POSITION.

I WILL SUPPORT THESE BILLS.

The CHAIRMAN. I thank the gentleman.

Gentlelady from the Virgin Islands wish to make an opening statement?

STATEMENT OF THE HONORABLE DONNA M. CHRISTENSEN, A DELEGATE TO CONGRESS FROM THE VIRGIN ISLANDS

Ms. CHRISTENSEN. Yes, I do. Just a brief one, Mr. Chairman. I thank you for holding this hearing. I also want to welcome my good

friend, Mayor Kilpatrick, the other mayors, the President and Chairman of the tribes, and of course, my Michigan colleagues, as well as the other distinguished panelists who have traveled here today for this hearing.

This is a very difficult and complex hearing issue before us today. While I can understand the desire and the need for the State of Michigan to resolve the claim on Charlotte Beach by the Sault Ste. Marie Band of Chippewa and Bay Mills Indians, I do have very grave concerns about the settlement agreement that we are being asked to ratify in this hearing today as a person who has always stood for and in support of our Indian tribes in this country.

However, I am very clear that there must be a settlement to satisfy what is due to the tribes. I do not feel that this is the way to go. This settlement, as I see it, would jeopardize the economic security of Detroit, a city that is heavily black and is beginning to see a resurgence under the leadership of Mayor Kilpatrick largely due to the revenues from the current casinos in that city which stand to lose under this agreement.

Both tribes already have casino gaming, and their members are benefitting from its profits. So this, as I see it, is not really an economic issue for them, it is an issue of a settlement that needs to be put in place. It is an economic issue for the City of Detroit. I am very interested in hearing the testimony before us today, but at the end of the day the test that we have to meet is that we do no harm.

I think that the bills before us today, while well-intentioned, do not really meet that test, Mr. Chairman. Thanks.

The CHAIRMAN. Thank you, Donna.

No further opening statements from Committee members, the Chair will now proceed to recognizing our witnesses and the lead off witness, whom I have already introduced, the Dean of the House of Representatives and my good friend, Chairman John Dingell.

STATEMENT OF THE HONORABLE JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. DINGELL. Mr. Chairman, I thank you for this extraordinary courtesy to us, and I thank you for your friendship. I also want to thank Ranking Member Young and the members of this committee, especially my dear friend, Mr. Kildee, from Flint. I want to thank you for holding this hearing today and for listening to the merits of the proposal.

I want to also thank Mayor Alan Lambert of Romulus, Michigan, and Aaron Payment of the Sault Ste. Marie Chippewa Tribe of Indians, for taking time from their busy schedule to be here with us today. I also want to thank my dear friend, Candice Miller, for her work on this issue, and of course, my very dear friend, Bart Stupak, for his tireless efforts to settle the very legitimate land dispute in this matter.

Mr. Chairman, I ask you at this time to extend my remarks in the record in order to save the time of the Committee.

The CHAIRMAN. Without objection. Chairman, apologize, just a minute. All member statements will be made a part of the record

as if actually read, and every member, feel free to proceed as you desire.

Mr. DINGELL. First of all, Mr. Chairman, I am delighted to appear here on behalf of H.R. 4115 and the other bill, H.R. 2176, the first by myself, the second by my dear friend, Mr. Stupak, and Ms. Miller. I would note if you read the title of these bills it says to provide for and approve the settlement of certain land claims of the Sault Ste. Marie Tribe of Chippewa Indians. That is in H.R. 4115.

In H.R. 2176, the purposes of the bill are set forth to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community. I would note for the benefit of some of my colleagues here who may perhaps not have read the bills that nowhere in this legislation appears authority for the Indians to engage in gambling.

As a matter of fact, gambling is not mentioned in either of the bills, although there are certain gambling interests that oppose these legitimate pieces of legislation for the resolution of important questions in Michigan approved by two Governors, a Republican, Mr. Engler, and a Democrat, Ms. Granholm.

Let us talk then about it. We have before us a legitimate land dispute. We also have an economic opportunity for a state. We do not have any violation of the legislation regulating Indian gambling on reservations or otherwise. We have a solution to a problem which is depressing the economy of the communities represented by Mr. Stupak where it affords massive opportunities for the communities served so well by Ms. Miller and our good friend, Mr. Kildee.

This, again, is a situation where Michigan's unemployment rate is seven and a half percent, leading the nation, and where our household income has decreased by 11.9 percent since 2000 and where the state has lost over 350,000 jobs. The opportunity presented by these two pieces of legislation will bring something like 2,700 high paying, onsite, union jobs to the 15th District of Michigan and a similar opportunity to the district so well served by our distinguished colleagues, Mr. Kildee and Ms. Miller.

The legislation in each instance extinguishes land claims in the area of the Sault Tribe. These two tribal bands were once, and have been found to have been, a single band of Indians in a single tribe.

The character of the lands and the tribes is set forth in the settlement agreement which was reached, I repeat, by the Governors of the State of Michigan, and supported now by the current Governor of the State of Michigan and approved by the governments of the State of Michigan. The legislation directs the Secretary of Interior to take the lands into trust as lands obtained in a settlement of a land claim under the Indian Gaming Regulatory Act.

Now, I would note that you are going to hear from opponents of these bills. Some will say enough is enough and the state does not need another casino. I would note for the benefit of my colleagues here who are here to complain that there is no mention of casinos in the legislation.

The issue before us is that we are going to solve a major problem, which is suppressing the economy of Michigan, and of the northern peninsula of Michigan and the upper peninsula and which

affords opportunity for communities served by Members of Congress here today to do better and to enjoy profitable economic activities.

I would repeat that enactment of this legislation will create thousands of well-paying union jobs in a number of congressional districts here. I would also like to submit for the record the settlement agreement between the Sault Ste. Marie Tribe of Chippewa Indians and the State of Michigan. This was entered into, as I mentioned, in 2002 by then Governor John Engler.

The settlement stems from a longstanding dispute on lands in Charlotte Beach, Chippewa County, Michigan. Some will say these claims are not legitimate. I would observe that if you listen to testimony today you will find they are legitimate. The Governors of the State of Michigan have found them to be so, and the Indians have found them to be satisfactory.

I would note that Mr. Stupak and Ms. Miller will address this in a broad explanation of these matters, which I would hope again would be helpful, to opponents of the legislation. Now, as you will note, the settlement agreement forms a basis for action by Congress to extinguish the Charlotte Beach land claim in return for alternative lands to be taken in trust for the tribe in either Monroe County, south of Raisin River, or in the City of Romulus, or in the City of Flint.

Both Romulus and Monroe are in the 15th District, which I had the honor to serve, and for many months both of the communities, Monroe and Romulus, have discussed whether they wanted a casino there. I would note that Romulus has decided they do, Monroe has decided they do not. The Indian bands do want to go to Romulus if they go there. So this is something which would probably be a good thing.

I would note for the benefit of the opponents of this legislation that the City of Romulus has passed a referendum in December of 2003 with a 57 percent support approving a casino to be built in that city. The Sault Tribe has of course voluntarily elected to pursue that possibility there. You will hear then from the elected representatives of our people back home that they want this.

I do not believe that a group of out of state special interests, like MGM, should be able to send a bunch of folks down here to confuse the issue and to do hurt to the people that are served by legitimate representatives, and members of the Congress and members of the constituencies which we serve.

I would also note that there have been claims made that this would adversely impact Detroit. I would ask unanimous consent to submit a study which addresses this matter in which Drs. Gary Wolfram and Bruce Ikawa performed a study which suggested that there will be, "no statistical effect on competition on casinos within a 60 mile range or 120 mile range."

So this business of allowing dogs in the manger to deny a resolution of an important question for us in Michigan is, I think, entirely improper, and I hope this committee will extend its sympathy and its support to the legitimate citizens of Michigan who want to have this particular relief.

I would ask unanimous consent to submit also to you a story yesterday in the Port Huron Times Herald which broke a study link-

ing Gambling Watch, a nice word, a recently established, "anti-gambling group," asking citizens to speak out against the opening of any new casinos in Michigan to the MGM Grand Casino in Detroit.

The good and honest people who have been suckered into supporting this are legitimately opposed to gambling, but they have not received the whole story.

I am sure they would be shocked and appalled to learn that they are being used by people who are imposing the same shoddy lobbying tactics that were used by Jack Abramoff, a man who now is serving time in the jailhouse, as he properly should, for his behavior in connection with the use of similar tactics in opposition to legitimate legislation of this kind and the kind of deceitful practices which quite frankly shame him and shame those who pay the salary of those who do this kind of unfortunate thing.

In any event, a very comprehensive and expensive binder was delivered to the members' offices yesterday, and just to address this in a brief way I would note several things. First of all, many of the letters in there are outdated and are not any longer relevant. Second, Tab F has absolutely nothing to do with the legislation under consideration today.

As you will note, the Bureau of Indian Affairs rejected the Hannahville Tribe's request to develop off gaming reservations in Romulus. I would note we are not asking for off-reservation gambling, we are simply asking for the settlement of land claims legitimately settled by our Governors, and the state government and the Indian tribes concerned.

Under discussion today is a legitimate land claim then involving the Sault Ste. Marie Tribe, as I had mentioned. Three, Tab G contains a study of the potential impact of expanded gaming in the City of Detroit. I would note there is no reference in the binder as to who did the study. If I do studies I would be sufficiently proud of them that I would make known who it was had done this.

Perhaps maybe those who are pushing this study will want to lay that before the Committee. I think it would be helpful. In any event, I would like to submit for the record and ask unanimous consent to do so, Mr. Chairman, a number of additional documents.

First, a letter from Wayne County Commissioner Edward Boike in support of H.R. 4115. As you will note, Commissioner Boike talks about job opportunities derived from this legislation for Wayne County. Second, I would like to submit a letter from the International Union of Bricklayers and Allied Craft Workers in which they set forward the number of jobs that the construction aspects of projects undertaken by the Indians then would mean to us in Michigan.

I would also like to submit letters from Governor Granholm of Michigan in support of both H.R. 4115 and H.R. 2176. Last, I would ask that letters from Mr. Stupak, Ms. Miller and myself dated November 14, 2007, and February 5, 2008, in response to opposition claims be included in the record.

Since both bills before you today derived from land settlement agreements that originate from the same land dispute it is critically important that both bills move together so that this matter may be resolved completely and in a timely manner.

It has suffered over long, and the communities and the people involved have suffered over much by the delay that has been imposed upon this committee and upon the Congress by the unfortunate and I think ill-timed and improper opposition to the legislation. I want to thank you, Mr. Chairman, and the members of the Committee for your consideration.

I look forward to answering any questions that you might wish to direct to me. Thank you, Mr. Chairman.

[The prepared statement of Mr. Dingell follows:]

Statement of The Honorable John D. Dingell, a Representative in Congress from the State of Michigan

Chairman Rahall, Ranking Member Young and Members of the Committee, thank you for holding this hearing today and for being here to listen to the merits of this proposal. I would also like to thank Mayor Alan Lambert of Romulus, Michigan and Aaron Payment of the Sault Ste. Marie Tribe of Chippewa Indians for taking time out of their busy schedules to be here today. I would like to thank Representative Candace Miller for her work on this issue. Lastly, I would like to thank Representative Bart Stupak for his tireless efforts to settle the very legitimate land dispute in his district.

I am here today to talk about an economic opportunity for a state that continues to be affected disproportionately by domestic and global economic forces. Michigan's unemployment rate of 7.5 percent leads the nation. Michigan's median household income has decreased by 11.9 percent since 2000 and the State has lost over 350,000 jobs.

The opportunity presented in H.R. 4115 will bring 2,700 well-paying, on-site, union jobs to Michigan's 15th Congressional District. In addition to that number, we are looking at 1,400 construction jobs—also union—needed to build the facility. Mr. Chairman, this is an opportunity for Michigan we simply cannot afford to turn down.

The legislation I introduced would extinguish the land claims in the area of the Sault Tribe. In exchange, the legislation will grant the Sault tribe alternative lands in Otsego County, Michigan and Romulus, Michigan as outlined in the settlement agreement. These alternative lands would become part of the reservation of the Sault Tribe community.

In addition, my legislation directs the Secretary of the Interior to take these lands into trust as land obtained in a settlement of a land claim under the Indian Gaming Regulatory Act.

Now, throughout this hearing you are going to hear from opponents to these bills. Some may say enough is enough, the State simply does not need another casino. Others will express strong opposition based on the fact that the proposed facility is supposedly too far away from the original reservation. While still others may say that the Southeast Michigan gaming market is already saturated. To those opposed to these pieces of legislation, I simply say, let's not create a battle between those communities that have casinos versus those communities that do not. Rather, let us work together to help extinguish legitimate land disputes that have been around for generations while at the same time allowing investment in our communities and our State. Let us build a brighter Michigan that creates thousands of well paying, union jobs that will help our state recover from the recent job losses we have experienced.

I would like to submit for the record the Settlement Agreement between the Sault Ste. Marie Tribe of Chippewa Indians and the State of Michigan. Entered into in 2002 by then-Governor John Engler, the Settlement stems from a longstanding dispute on lands in Charlotte Beach, Chippewa County, Michigan. Now some will erroneously say these land claims are not legitimate. To those folks, I ask you to listen to the testimony here today, including that of our good colleague Mr. Stupak—who will tell you of muddied titles, uncertain property rights and diminished property values. As you will see, the Settlement Agreement forms the basis for action by Congress to extinguish the Charlotte Beach land claim in return for alternative lands to be taken into trust for the Tribe in either:

1. Monroe County south of the Raisin River;
2. The City of Romulus; or
3. The City of Flint

Now, both Monroe and Romulus are in Michigan's 15th Congressional District. For many months, Monroe and Romulus discussed whether or not they wanted a

casino. Eventually, Monroe fell out of the running while the City of Romulus expressed continued interest. In fact, voters in Romulus passed a referendum in December 2003 with 57% in support of approving a casino to be built in that city. The Sault Tribe has voluntarily elected to pursue only the possibility of alternative land in Romulus.

You will hear from folks today that the voters of Michigan expressly voted in 2004 against any expanded gaming in the State. I would like to submit for the record the text of proposal 04-1, which very clearly states that the proposal "does not apply to Indian tribal gaming or gaming in up to three casinos located in the City of Detroit".

I understand the concerns of the Detroit Mayor and some other Members of Congress that a new casino in Romulus would adversely impact Detroit. An awful lot has been invested into the gaming facilities within the City. I would like to submit for the record an economic analysis by Drs. Gary Wolfram and Bruce Ikawa. The analysis, based on a complex equation, suggests there would be "no statistical effect of competition on casinos within a 60 mile range or a 120 mile range". So, Mr. Chairman, as you can see, there is ample economic opportunity to go around.

I would like to take just a moment to express my disappointment and dismay at the lobbying tactics used by some of the opponents of my bill. As many of you may have read, the Port Huron Times Herald broke a story yesterday linking Gambling Watch, a recently established "anti-gambling group" asking citizens to speak out against the opening of any new casinos in Michigan, to the MGM Grand Casino in Detroit. The good and honest people who are legitimately opposed to gambling would be shocked and appalled to learn they are being used by people employing shady lobbying tactics reminiscent of Jack Abramoff. I look forward to hearing from some of the opponents here today about whether or not they were involved in these dubious tactics.

I understand Mr. Chairman that a very comprehensive looking binder was delivered to Members' offices late yesterday. I would like to take a moment to address just a couple of things in that binder: One—many of the letters in there are outdated and are no longer relevant. Two—Tab F as absolutely nothing to do with the legislation under consideration here today. As you can see, the Bureau of Indian Affairs rejected the Hannahville Tribe's request to develop off-reservation gaming in Romulus. Under discussion today is a legitimate land claim involving the Sault Ste. Marie Tribe. And three: Tab G contains a study of the potential impact of expanded gaming on the City of Detroit. I would note there is no reference in the binder as to who did the study.

Finally, I would like to submit into the record a few additional documents. First, a letter from Wayne County Commissioner Edward Boike in support of H.R. 4115. As you will see, Commissioner Boike talks about the job opportunities derived from this legislation for Wayne County. Additionally, I would like to submit a letter from the International Union of Bricklayers and Allied Craftworkers. As you can see, Michigan stands to gain an additional 1,400 jobs from the construction aspect of this project. I would also like to submit letters from Governor Granholm of Michigan in support of both H.R. 4115 and H.R. 2176. Lastly, I would ask that letters from Representatives Stupak, Miller and myself dated November 14th, 2007 and February 5, 2008 in response to opposition claims be included in the record.

Since both bills before you here today derive from land settlement agreements that originate from the same land dispute, it is critically important that both bills move together so this matter may be resolved completely and in a timely manner.

Thank you for your time and consideration. I look forward to answering any questions you might have.

[The Port Huron Times Herald article and letters submitted for the record by Mr. Dingell follow:]

Port Huron Times Herald

Casino foe mailings scrutinized

Miller calls foul over highly organized opposition campaign

By MIKE CONNELL
Times Herald

Directing its appeal to "Michigan families," a newly incorporated organization has launched a direct-mail campaign aimed at blocking proposed casinos in Port Huron and Romulus.

There is a twist, however.

The organization—Gambling Watch—isn't a grassroots anti-gambling group opposed to casinos on moral or ethical grounds. In fact, it's a corporation created just two weeks ago by a Lansing public-relations specialist whose clients include MGM Mirage, a giant in the gambling industry and a fierce opponent of the two casinos.

"This was put together by a very well known, highly paid political consultant who has worked for other casino interests, other gaming projects in Michigan," said Rep. Candice Miller, R-Harrison Township, whose district encompasses Port Huron. "Spare me the righteous indignation."

Gambling Watch was incorporated on Jan. 18, according to the Michigan Department of Labor and Economic Growth. The legal paperwork was handled by a lawyer with Dickinson Wright, a Lansing law firm that counts MGM Mirage among its clients. Gambling Watch's resident agent is Lori Wortz, the chief operating officer of Sterling Corp., a Lansing public-relations firm that specializes in ballot proposals and public-policy issues.

Conservative activist

Wortz is well-known in conservative political circles. She oversaw Pat Robertson's 1988 presidential campaign in Michigan and later worked for the Republican National Committee. Last month, she helped guide Mitt Romney's campaign to a primary victory in his native state.

In a telephone interview, Wortz acknowledged her work with MGM Mirage but said Gambling Watch was strictly her initiative.

"They're supportive of it," she said of MGM, "but there are other people who support it, too."

MGM Mirage, based in Las Vegas, has annual revenues in excess of $7 billion. Its majority owner is Kirk Kerkorian, 90, whose personal fortune was estimated at more than $9 billion last year by Forbes magazine. According to federal disclosure forms, MGM spent at least $160,000 in the first half of 2007 to lobby against a Port Huron casino.

The people spoke

Wortz recalled campaigning for a 2004 ballot initiative that amended the state constitution to require voter approval of any expansion of gambling in Michigan. The measure was aimed at so-called "racinos," or the legalization of slot machines at seven horse tracks in southern Michigan.

MGM Mirage, which has invested more than $800 million in a casino-hotel in Detroit, and the Saginaw Chippewa, which runs the state's largest casino in Mount Pleasant, did not want competition from race tracks. They poured money into the campaign for the 2004 proposal, which passed easily.Wortz said the voters spoke clearly, which is why she believes it would be wrong to allow casinos in Port Huron and Romulus without a statewide referendum.

"What I feel and many others feel is that it's important for voters to be aware that this is about expansion of gambling," she said. "Any expansion in the state should go to the voters."

Families on alert

Gambling Watch has shared that message in fliers mailed to households across the state.

The flier carries a large headline: "Michigan Family Alert." A smaller headline adds:

"Washington Poised to Force Two New Casinos on Michigan Families. Only You Can Stop the Special Interests."

The flier mentions Wednesday's congressional hearing and calls on people to contact five politicians—Sen. Carl Levin, D-Detroit; Sen. Debbie Stabenow, D-Lansing; Rep. John Dingell, D-Dearborn; Rep. Bart Stupak, D-Menominee; and Miller.

It says the five "can put a stop to this special interest attempt to add two more casinos to the 22 Michigan already has."

Dingell and Stupak introduced the two bills that will be debated at Wednesday's hearing.

Levin and Stabenow have expressed support for a Port Huron casino.

Fair play, free trade

For the five years she has been in office, Miller has been steadfast in her support of a Port Huron casino, describing it as a matter of fair play and free trade.

She noted Port Huron is the only American border community that has not been allowed to compete for the jobs and tax revenues generated by casinos on the Canadian side.

She expressed frustration with Detroit Mayor Kwame Kilpatrick and his refusal to reach out to Port Huron.

"I remember when he was saying we had to support casinos in Detroit so his city could compete for all the American dollars going to the casino in Windsor," she said. "And he was right, just as it's only right to let Port Huron compete for all of the American dollars going to Point Edward and Sarnia."

Miller also observed that Port Huron's entire political delegation—local, state and national—supports the casino.

She said her office has received "upwards of 500 phone calls in the last week" from people responding to Gambling Watch's mailer. Little if any of that opposition was coming from St. Clair County, she added, "and we're certainly not getting any from Port Huron."

Nick Choate, an aide to Stupak, said his office also has been getting calls. "I don't have an exact number. We are getting a few," he said. "I wouldn't say the phones are ringing off the hook."

Choate said he was unaware of Gambling Watch's origins.

Deceptive tactics

For her part, Miller clearly wasn't amused to learn of the ties to a public-relations agency and a law firm that represent MGM Mirage.

"When my staff first told me about these fliers, I said 'I can tell you right now who's behind this,'" she recalled. "Who would pay for a mailing like this? It had to be other casino interests. This thing is about money."

She said people who oppose gambling for reasons of conscious were being manipulated by special interests with hidden motives."Have you heard of Jack Abramoff?" Miller asked, naming the corrupt lobbyist who is serving a federal prison sentence for fraud, conspiracy and tax evasion. "These people who put this flier out have taken a page right out of the Abramoff playbook. These are exactly the kind of tactics he would do for his clients. It's a very deceptive thing." Miller is scheduled to testify at Wednesday's hearing, which focuses on bills introduced by Stupak and Dingell. She also said the 48-member committee is not expected to vote on the measures until later this month.

If the committee approves the bills, they would go to the full House for its consideration. Companion legislation has not yet been introduced in the Senate.

Statement submitted for the record by Edward A. Boike, Jr., Wayne County Commissioner, Wayne County, Michigan

Mr. Chairman and members of the House Natural Resources Committee.

My name is Edward Boike and I am the Vice Chairman and an elected member of the Wayne County Board of Commissioners. Wayne County has 43 communities, in which Detroit is the largest.

I am testifying today in support of H.R. 4115. Introduced by Congressman John D. Dingell, this legislation approves a land settlement agreement between the State of Michigan and the Sault Ste. Marie Tribe of Chippewa Indians.

The settlement agreement was negotiated by Republican Governor John Engler and amended by Democratic Governor Jennifer Granholm. It provides for alternative reservation lands being placed in trust for the Sault Tribe in Southeastern Michigan.

This legislation will bring thousands of good paying job opportunities for residents of Detroit, Romulus and all Wayne County communities.

With approval of the settlement agreement, the Sault Tribe will be able to obtain and develop land in Romulus—providing Wayne County a much needed, sustainable business development. This project will have significant beneficial impacts on the City of Romulus and all of Wayne County.

A new casino is soon to open in Battle Creek, located in Southwest Michigan—attracting patrons from Western Wayne County and neighboring Washtenaw County. It is important Wayne County is able to compete with this new competition. With one of the nation's busiest airports located in Romulus and significant infrastructure improvements to support it, the high traffic counts in the area show Romulus is the most attractive location to maintain gaming revenue staying in Wayne County.

Once developed, it is estimated the casino gaming business that will be built in Romulus by the Sault Tribe will create more than 2,700 on-site jobs. This does not include the estimated 1,400 construction jobs required to build the facility. In addition to the on-site employment opportunities, it is estimated that another 2,000 jobs will come from increased business in the area.

These good paying jobs will provide Southeastern Michigan workers with much-needed employment opportunities. According to the Michigan Department of Labor & Economic Growth, Wayne County currently has a 9% unemployment rate.

This is even higher than the State of Michigan, who leads the country with 7.6% unemployment. It is critical that new jobs are created to replace the recent loss of nearly 250,000 manufacturing jobs in our state. I hope you will approve H.R. 4115 so Wayne County's economy can continue to develop and grow.

Thank you for your consideration to this very important issue.

Wayne County Commission

EDWARD A. BOIKE, JR.
WAYNE COUNTY COMMISSIONER
15th District

500 Randolph, Suite 453
Detroit, Michigan 48226
Telephone: (313) 224-0878
Fax: (313) 967-6570

February 4, 2008

The Honorable Nick Rahall
Chairman, Natural Resources Committee
US House of Representatives
Washington, D.C. 20515

The Honorable Don Young
Ranking Member, Natural Resources
US House of Representatives
Washington, DC 20515

Dear Chairman Rahall and Ranking Member Young:

I write to you as an elected member of the Wayne County Board of Commissioners, representing the southern part of the County including the City of Romulus. Wayne County has 43 communities, in which Detroit is the largest.

I strongly support HR 4115 that is currently in front of your committee. This legislation will bring good job opportunities for residents of Detroit, Romulus and all Wayne County communities.

Congressman John D. Dingell introduced the bill, which settles a century old land claim for the Sault Ste Marie Tribe of Chippewa Indians in Charlotte Beach, Michigan. The settlement agreement was negotiated by Republican Governor John Engler and amended by Democratic Governor Jennifer Granholm.

Upon approval of this settlement agreement, the Tribe will be able to develop land in the City of Romulus; providing Wayne County a much needed, sustainable business development and creating more than 2,700 jobs. In addition to the on-site employment opportunities, it is estimated that another 2,000 jobs will come from increased business in the area.

At 9% unemployment (December 2007, Michigan Department of Labor & Economic Growth), Wayne County is experiencing even higher levels of joblessness than the State of Michigan, who currently has the highest rate in the nation.

Negotiations are ongoing between Wayne County and the Sault Tribe regarding final details of the project.

I hope you will approve HR 4115 so Wayne County's economy can continue to develop and grow. Thank you for your consideration of this important issue.

Sincerely,

Edward A. Boike, Jr.
Wayne County Commissioner

[A letter submitted for the record by Raymond Chapman, President and Business Manager, Bricklayers and Allied Craftworkers, follows:]

Local No. 1 of Michigan
of the Bricklayers and Allied Craftworkers International Union of North America

RAYMOND CHAPMAN
President
and Business Manager

MARK KING
Financial Secretary
and Field Representative

February 4, 2008

The Honorable Nick Rahall
Chairman, Natural Resources Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Don Young
Ranking Member, Natural Resources
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Rahall and Ranking Member Young:

On behalf of the International Union of Bricklayers and Allied Craftworkers, Trowel Trades Local 1 of Michigan, I am writing to encourage your committee to pass H.R. 4115 that is currently under consideration.

The legislation approved a land settlement agreement between the State of Michigan and the Sault Ste. Marie Tribe of Chippewa Indians. The settlement agreement was negotiated by Republican Governor John Engler and amended by Democratic Governor Jennifer Granholm.

It provides for alternative reservation land being placed in trust for the Sault Tribe near the Detroit Metropolitan Airport in the City of Romulus. More than 2,700 on-site jobs will be created from the casino gaming business that is developed by the Tribe due to this settlement agreement. Another 1,400 or more will come from the construction project to build the facility.

21031 Ryan Road, Warren, Michigan 48091
phone 586-754-0888 • fax 586-754-5889

With Michigan currently leading the nation with the highest unemployment rate at 7.6% (December, 2007 – U.S. Bureau of Labor Statistics), it is critical that new employment opportunities are created to replace the recent loss of nearly 250,000 manufacturing jobs in the state.

I strongly support approval of H.R. 4115 because it will provide thousands of employment opportunities in Southeastern Michigan for working families.

Sincerely,

Raymond Chapman
President and Business Manager

cc: Congressman John D. Dingell
Congressman Bart Stupak

[A letter submitted for the record by Hon. Bart Stupak, Hon. Candice Miller, and Hon. John Dingell follows:]

February 5, 2008

The Honorable Nick J. Rahall
Chairman, Natural Resources Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Rahall:

We are writing to you today to ask for your support of our legislation (H.R. 2176 and H.R. 4115) that settles a long-standing land claim in Charlotte Beach, Michigan. We thank Chairman Rahall and Ranking Member Young for the leadership they have shown by endorsing and supporting this legislation and for providing a hearing for this legislation in the Natural Resources Committee on Feb. 6th.

We introduced this legislation to allow the Congress to accept an agreement reached between by two successive Governors on behalf of the State of Michigan and two constituent Native American tribes, the Bay Mills Indian Community and the Sault Ste. Marie Tribe of Chippewa Indians.

This legislation provides a positive solution to long standing problem. The settlement will benefit the tribes, the State of Michigan and the local communities that have been working cooperatively with the tribes for several years in attempting to resolve this claim. The Bay Mills Indian Community and the Sault Tribe are comprised of successors to several bands of Chippewa Indians who ceded much of the State of Michigan. In later treaties the tribes were able to purchase land in "Charlotte Beach", Michigan, land that was illegally sold off at a tax sale to land speculators despite being deeded to the Governor of the State to protect the Tribe's interest. This land is ancestral land of both tribes and was wrongly taken from them even though they repeatedly tried to win redress for the loss of the land. The Bay Mills Tribe filed suit in federal and state court. The cases were dismissed on procedural grounds and the merits never fully considered.

As a result, to this day the Charlotte Beach land claim remains a cloud on the title of area landowners in Chippewa County, who have also sought to have that cloud lifted. For tax purposes, the claim has devalued the land significantly. In fact, the County Chairman of Chippewa County has written to the Committee to support our legislation and ask for its passage.

To attempt to resolve this situation, two successive governors of the State, John Engler (R) and Jennifer Granholm (D), both lawyers, signed settlements of the claims. Their extensive personal involvement in this issue attests to the level of seriousness of the land claims. As with other land claim settlements approved by Congress, the settlement would allow for replacement lands to be taken into trust, rather than evicting current owners. The replacement land for the Bay Mills Tribe is located in Port Huron, Michigan. Replacement land for the Sault Tribe may be lo-

cated in Romulus or Flint, Michigan. Representatives of these communities will also testify at the hearing in strong support of the settlement.

Despite our views as the representatives of all the affected areas, the support of the Governor, the support of the community in which the disputed land is located and the support of the communities in which the tribes would locate, it has recently come to our attention that two letters were sent to the Committee that contain numerous inaccuracies, distortions, and outright misrepresentations of fact regarding our legislation. While we are not surprised that the small handful of opponents to this common sense legislation will go to great lengths in order to undermine a constructive settlement, we strongly believe the inaccurate information they are circulating in opposition to our efforts should not go unchallenged.

In their correspondence to the Committee some opponents have attempted to cast doubt on the legitimacy of this land claim. However, Michigan's current Governor and its most recent Governor have accepted the legitimacy of the claim and personally worked to resolve it. Noted tribal experts have also verified the legitimacy of the claim, and we can assure you that for the property owners and taxpayers in Charlotte Beach, this land claim is all too real. Clouding of private property titles as a result of the unresolved claim has resulted in homeowners finding as much as 90% of their property's assessed value has been lost. In turn, this has led to a depreciation of the real estate tax base of Chippewa County, resulting in lost revenue and reduced government services.

Our opponents have also alleged that the authority of the Michigan legislature could somehow be undermined by approval of the Charlotte Beach settlement. Nothing could be further from the truth. Under the 1993 Bay Mills and Sault Ste. Marie compacts, negotiated by the Governor and ratified by the legislature, the tribes are allowed to game on any eligible Indian land in the State of Michigan. Thus, the State Legislature does not need to pass on a new site so long as it would be eligible Indian Land. This was confirmed in the settlement of litigation between the Keweenaw Bay Indian Community and the State of Michigan.

The Bay Mills and Sault Ste. Marie compacts do not have an expiration date, but rather an optional time frame for the Governor to ask for renegotiation of the compact. When the Governor negotiated the Bay Mills Settlement, he chose to delay this optional time frame. This too mirrored an action blessed by a Federal Court in settlement of the Keweenaw Bay lawsuit.

Finally, the changes in revenue sharing to the State of Michigan are governed by the 1993 Michigan Indian Gaming Settlement Agreement. This agreement allowed for the establishment of Indian gaming in Michigan and placed sole power in the hands of the Governor to negotiate the terms of revenue sharing agreements with Michigan tribes. Thus, any suggestion that H.R. 2176 and H.R. 4115 somehow wrongfully usurp the prerogatives of the legislature runs contrary to all applicable state laws and compact agreements.

Equally unfounded are the arguments made by opponents that H.R. 2176 and H.R. 4115 undermine the Indian Gaming Regulatory Act (IGRA). When IGRA was enacted in 1988, it was contemplated that situations may arise where tribal governments may wish to conduct gaming on lands acquired through land claim settlements, and IGRA specifically allows for this to happen. In fact, the Charlotte Beach Settlement actually exceeds requirements found in IGRA for land claim settlements by including the active involvement of the local communities in the settlement and by having already secured the approval and support of the Governor of Michigan.

Under the Constitution, Congress has plenary power over all Indian policy, and possesses the sole ability to extinguish aboriginal Indian land title. As the Charlotte Beach Settlement requires the extinguishment of Indian title to the lands in question and new land being taken into trust for the tribe, it is entirely appropriate and in fact incumbent upon Congress to act on this matter. Congress has done so on at least five occasions since the enactment of IGRA, with the land in question being deemed eligible for gaming. Congressional action on this matter does not circumvent IGRA, but rather expedites an existing process, saving the federal taxpayer significant expense and providing an immediate resolution to the claim.

Opponents of our legislation have alleged that it will open the door for "off-reservation gaming". This is patently false. Settling these long-standing claims will not open the door to a "rash of tribal land claim lawsuits" by tribes hoping to acquire new lands for gaming. For nearly 20 years, IGRA has contained a land claims exemption, and its existence has not produce a deluge of land claim lawsuits. Indeed, most outstanding Indian land claims in the United States have already been resolved by the Indian Claims Commission or acts of Congress. Outside of the Charlotte Beach land claim and a handful of others, few legitimate Indian land claims remain unresolved at this juncture. As mentioned earlier, H.R. 2176 and H.R. 4115 are land claim settlement acts which include the provision of alternate lands for

tribes in compensation for relinquishing their claims to Charlotte Beach lands. As both pieces of legislation conform with the spirit and intent of IGRA that lands acquired by a tribe through a lands claim settlement be eligible for gaming, without limitation on location, it is misleading to attempt to label these bills as promoting off-reservation gaming.

We urge you to reject the 11th-hour overtures of those who seek to derail the common-sense settlement embodied in H.R. 2176 and H.R. 4115 in order protect incumbent casino gambling interests and fight the precedent that will be set by the Bay Mills tribe in paying its fair share to the State of Michigan to help with statewide economic redevelopment and job creation.

We appreciate your continued commitment in helping us to resolve this matter and shepherd this legislation through the House.

Sincerely

Bart Stupak	Candice Miller	John Dingell
Member of Congress	Member of Congress	Member of Congress

[A letter from Hon. John M. Engler, Former Governor, State of Michigan, dated June 23, 2004, to Chairman Pombo and Ranking Member Rahall. follows:]

John M. Engler
6700 Sorrel Street
McLean, VA 22101

June 23, 2004

The Honorable Richard Pombo	The Honorable Nick Rahall
Chairman	Ranking Member
Committee on Resources	Committee on Resources
U.S. House of Representatives	U.S. House of Representatives
Washington, D.C., 20515	Washington, D.C. 20515

Dear Mr. Chairman and Ranking Member Rahall:

I want to thank you and the members of the House Resources Committee for moving forward with hearings on H.R. 831 and H.R. 2793, which will finally resolve the so-called Charlotte Beach land claims of the Bay Mills Indian Community and the Sault Saint Marie Tribe of Chippewa Indians.

As Governor of Michigan, it was my duty to negotiate the land settlement agreements between the State of Michigan and Bay Mills and the Sault Tribe in 2002. I signed the Bay Mills agreement in August 2002 and the Senate Committee on Indian Affairs held a hearing on the settlement just three months later in October. At that hearing, Chairman Inouye suggested the state also reach an agreement with the Sault Saint Marie Tribe to complete the settlement process. In December of 2002, I signed the agreement with the Sault Tribe. I am proud that every concerned party involved in this settlement supports this agreement. This is a true example of a state and the Tribes promoting cooperation rather than conflict.

More than 20 years ago the Bay Mills Tribe revived their efforts to reclaim land they believed were unjustly taken from them almost 150 years ago. This 110-acre parcel, commonly referred to as the Charlotte Beach property, first came to the state of Michigan's attention in the 1980's when more than 200 property owners complained that they could not obtain clear title to their land. Property value assessments on these properties had been reduced by as much as 90 percent. Bay Mills was unsuccessful in pursuing this claim in either the state or federal court system and procedural rulings have prevented any resolution of the claim – leaving the property owners without marketable title. Congressional action is the only way to resolve extant claims that are having a real impact on the lives of the landowners.

As Governor, I worked hard to forge a settlement that would be satisfactory to all parties involved. An agreement had to remove all claims against the land and allow the landowners to obtain clear title to their property. It also had to fairly compensate the

The new lands located in Port Huron were carefully chosen for the Bay Mills Tribe as Port Huron remains the last border crossing in the state of Michigan without a United States run casino where a Canadian one exists on the other side. This is a major factor in the economic distress of Port Huron as millions of U.S. dollars are spent annually right across the border in Canada. The Sault Tribe was allowed to negotiate with several areas but could only move forward with the consent of the area involved.

Upon close examination, I believe you will find the settlement your committee is considering is a win win for everyone involved:

- the Charlotte Beach landowners will receive clear title to their land
- the tribes will be able to take land in trust, which is smaller in size, but potentially profitable and beneficial to the tribal members
- the communities of Port Huron and Romulus, cities in Michigan that have historically had a higher rate of unemployment than the rest of the state, have voter approved resolutions supporting the new casino ventures in their communities
- and the State will receive more than $30 million per year in new revenues at a time when budget constraints are affecting the state's ability to delver services

It is important to note that every member of the Michigan Congressional delegation representing a community involved in this settlement also supports the agreements. Congressman Stupak, who represents the Charlotte Beach landowners and the current home reservations of the two Tribes, has worked to find a solution to this situation for years. Congresswoman Candace Miller represents the City of Port Huron and is the sponsor of the Bay Mills bill. And Congressman John Dingell is a strong supporter and sponsor of the Romulus solution for the Sault Tribe.

Congressman Pombo, you and your committee members, are doing your duty by considering this state-tribe negotiated solution, the Charlotte Beach land claim and settlement. I encourage you to support H.R. 831 and H.R. 2793 to bring a positive conclusion to this unfortunate and too long unresolved situation.

Sincerely yours,

John Engler

[NOTE: The study by Wolfram and Ikawa, "An Analysis of Proposed Indian Casino Gaming in Romulus" dated November 2003; Settlement Agreement between the Sault Ste. Marie Tribe of Chippewa Indians and the State of Michigan; and additional documents submitted for the record have been retained in the Committee's official files.]

The CHAIRMAN. Thank you, Mr. Chairman. Without objection, all requested materials for submission in the record by all members will be made a part of the record.

Mr. Stupak.

STATEMENT OF THE HONORABLE BART STUPAK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. STUPAK Well, thank you, Mr. Chairman, and members of the Committee. Welcome to the Michigan delegation food fight. This is how it is. It is a food fight. It is not as has been dramatically portrayed as a deep divide in our delegation. That is not it. We are all advocates for our district, we are here to advocate for our district.

Some of us have personal beliefs on land that may be used for gaming that may or may not be proper. It is nothing that divides us. Michigan is a very united delegation. We continue to look for-

ward to work together on issues that affect the State of Michigan, and we appreciate the opportunity to appear here again.

We were here in 2004 to address this issue, we are here once again. I know I told my good friend and my Chairman, Mr. Dingell, I would yield him some of my time. I did not think I would have to yield him all of my time or that of rest of the panel. Let me be brief, Mr. Chairman.

Mr. Chairman, you articulated the 150 year history of this land claim. There is no reason to go through it again. As I said, we were here in 2004 on the same issue. I first became involved in this issue over 10 years ago, not at the request of any tribes but at the request of the residents of Charlotte Beach whose land value had been deeply devalued because of the cloud on this title for the last number of years.

As a result, property owners have trouble trying to secure real estate loans. They have had significantly lower property values because of the cloud on this title to the property at Charlotte Beach. Local assessors have reduced the value of a piece of property of the home on Charlotte Beach by 90 percent because of the cloud created by the land claim dispute.

Earl Kay, Chairman of the Chippewa County Board of Commissioners, has written testimony to provide additional information on the depreciation of land at four Charlotte Beach residents, and I ask that it be included in the record. Also, Mr. Chairman, I will make as part of my testimony Charlotte Beach residents' attorney, Ms. Leanne Barnes Deuman, has written testimony on behalf of her clients in support of passing these bills.

Again, I will support it or put it as part of my testimony. The tribes in this matter, the Sault Tribe and the Bay Mills Tribe, it is critical that Congress approve these two bills to ratify the land settlement agreements reached between Bay Mills and the Sault Tribes by former Governor Engler.

Tribes have worked together with the State of Michigan, the Charlotte Beach residents, to resolve this land dispute. However, without congressional approval the land exchange cannot be completed and the residents of Charlotte Beach will continue to face clouded land titles and economic hardships.

By ratifying these two settlements Congress has an opportunity to right a wrong and bring an end to a land dispute that has been going on for 150 years. You will hear many misleading and false statements about what my and Mr. Dingell's legislation represent. Let me make this crystal clear.

These two bills simply ratify a land exchange and put to rest a land dispute. This is a specific solution to a localized problem that has been arrived at only after extensive negotiation between the parties. Every opponent to our legislation resides outside of Mr. Dingell's district, Congresswoman Miller's district and my congressional district.

If I can make one more point, it is that the Congress has settled dozens of Native American land claims. The most recent was the Timbisha Shoshone Homeland Act of 2001. It is time for Congress to exercise its statutory and constitutional duty and ratify this land settlement agreement.

Thank you, Mr. Chairman. Thank you, Mr. Young. Thank you, members of the Committee for considering our legislation. I appreciate the time and effort you have put into this matter. I yield back.

[The prepared statement of Mr. Stupak follows:]

Statement of The Honorable Bart Stupak, a Representative in Congress from the State of Michigan

Thank you, Mr. Chairman, Ranking Member Young, and members of the Committee, for the opportunity to testify in support of H.R. 2176 and H.R. 4115 to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community and the Sault Ste. Marie Tribe. I have been working on this problem for over ten years and first introduced legislation in 1999 in an effort to resolve this issue.

I first became involved in this land claim dispute at the request of the property owners at Charlotte Beach, not the tribes. Tribal claims to the land have created a "cloud" on the property owned by my constituents in Charlotte Beach. As a result, the property owners have a difficult time trying to secure real estate loans, and have experienced significantly lower property values.

Local assessors have reduced the property values of the Charlotte Beach land owners by 90 percent because of the "clouded" title created by the land claim dispute. Earl Kay, Chairman of the Chippewa County Commission, has written testimony to provide additional information on the depreciation of land value for Charlotte Beach residents for this hearing, and I ask, Mr. Chairman, that it be included in the record.

In addition, the Charlotte Beach residents' attorney, Mrs. Leanne Barnes Deuman, has written testimony on behalf of her clients in support of passing these bills. In her testimony, you will find a description of the dire situation my constituents are in. I ask Mr. Chairman to have that testimony included in the record as well.

The tribes' claim to the land in question dates back to 1855, when the U.S. government signed the Treaty of Detroit deeding the land to the Tribes. However, the land was later sold to non-Indian speculators, without the tribes' knowledge, eventually resulting in an eviction of the members of the tribes. More than 100 years later, those individuals who originally stole this land from the tribes are deceased. But the current landowners are the individuals currently being harmed by the clouded titles and low property values.

In order to finally resolve this land claim dispute, a settlement agreement was reached in 2002 between former Governor John Engler and the Bay Mills tribe. Later that year, the Sault Ste. Marie tribe and Governor Engler reached a similar agreement. These settlement agreements have been reaffirmed by Michigan's current Governor, Jennifer Granholm.

In the settlement agreement, the tribes agree to extinguish their property claims at Charlotte Beach in exchange for land outlined in the settlement. The settlement invokes the Indian Gaming Regulatory Act (IGRA) exception clause of taking lands into trust to settle a land claim and was within the authority granted to the Governor by IGRA.

However, in order to be implemented, Congress must approve the negotiated land settlement agreement. I have introduced H.R. 2176 with the support of Congresswoman Miller, and Congressman Dingell has introduced H.R. 4115, with my support, to implement the land settlement agreements.

It is crucial that Congress approve these two bills to ratify the land settlement agreements reached between the Bay Mills and Sault tribes and former Governor Engler. The tribes have worked collaboratively with the State of Michigan and the Charlotte Beach residents to resolve the land dispute. However, without Congressional approval, the land exchange cannot be completed and the residents of Charlotte Beach will continue to face clouded land titles and economic hardships.

By ratifying these two settlements, Congress has an opportunity to right a wrong and bring an end to a land dispute that has been going on for over 100 years.

You will hear many misleading and false statements about what my and Congressman Dingell's legislation represent. Let me make this crystal clear: these two bills simple ratify a land exchange and put to rest a land dispute. This is a specific solution to a localized problem that has been arrived at only after extensive negotiations between the parties. Every opponent to our legislation resides outside of Congressman Dingell's, Congresswoman Miller's and my congressional district.

Lastly, if I can get one point across to you today, it is that Congress has settled dozens of Native American land claims, the most recent was the Timbisha Shoshone Homeland Act of 2001. It is time for Congress to exercise its statutory and constitutional duty and ratify this land settlement agreement.

Thank you, Chairman Rahall, and Ranking Member Young, and Members of the Committee for holding this hearing to bring about a final resolution to this land claim dispute. I look forward to working with you to pass this legislation and finally fix this problem.

[The letter from Earl Kay submitted for the record by Mr. Stupak follow:]

Earl Kay
Chairman

319 Court Street
Sault Ste. Marie, MI 49783-2194

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CHIPPEWA COUNTY COMMISSIONERS

February 1, 2008

Honorable Nick J. Rahall II, Chairman
Honorable Don Young, Ranking Member
United States House of Representatives
Committee on Natural Resources
Washington, DC 20515

Re: Value of Real Property at Charlotte Beach, Chippewa County, MI

Dear Sirs:

As the issue of the impacts of the potential ratification of the land claim settlement between the Bay Mills Indian Community and the Governor of the State of Michigan is of current concern to you and the members of your committee, I write to confirm to you the real impacts that the land dispute which is the subject of your on February, 6, 2008, has had on the property owners in Charlotte Beach, Chippewa County, Michigan.

As Chairman of the county Board of Commissioners and a life-long resident of the area, I would like you to be aware that the land dispute surrounding properties in our Charlotte Beach area has had, and continues to have, a real and significant impact on the values of the property. For many years, and up to the present time, the dispute between the Tribe and the State of Michigan concerning the taking of these lands has clouded the titles to those properties making the obtaining of "clear" title, impossible.

The inability of our residents to receive such title, thus title insurance, has been and continues to be a major impediment to the transfer of these properties at Charlotte Beach, making the sale of an ownership interest in any of these properties at fair market value difficult, to say the least. Until or unless this situation is rectified, the property values in this area will remain greatly reduced, hindered by these title issues for now and into the future.

Thank you for taking this issue and my comments into consideration.

Sincerely,

Earl Kay
Chairman

Statement submitted for the record by Leanne Barnes Deuman, Attorney at Law, Sault Ste. Marie, Michigan

I am Leanne Barnes Deuman, an attorney in private practice in Sault Ste. Marie, Michigan. I am pleased to submit this testimony for the record in support of both H.R. 2176 and H.R. 4115.

I represent 149 individuals who own very small parcels of land in an area known as Charlotte Beach, near Barbeau, Michigan. My clients innocently acquired their land in an area that later became the subject of a land claim by Indian tribes in the Eastern Upper Peninsula of Michigan, including the Sault Ste. Marie Tribe of Chippewa Indians and the Bay Mills Indian Community. My clients' story is very sad; their resources are extremely meager; and without the help of Congress, the lands which constitute their most precious assets, will be rendered worthless forever. The following is their story.

The Charlotte Beach lands are located on the southern shore of what is now known as Lake Nicolet, approximately 18 miles southeast of the City of Sault Ste. Marie, in the Upper Peninsula of Michigan. Prior to private ownership of the Charlotte Beach lands, these lands were designated for withdrawal from the public domain under a certain Treaty of 1855. This Treaty, known as the Treaty of Detroit, withdrew public domain land for selection by individual Ottawa and Chippewa Indians whose tribes were party to the Treaty with the United States. After the 1855 Treaty was negotiated, but prior to its ratification by Congress and, therefore, prior to the actual withdrawal of the lands from the public domain, the federal government issued land patents to Boziel Paul and his wife, who were non-Indians. Those land patents issued to the Pauls in 1856 included the present day Charlotte Beach property.

In 1857, for reasons which are not fully documented, the Pauls conveyed their Charlotte Beach property to the then Governor of Michigan, Kinsley S. Bingham, in trust for the benefit of two Bands of Chippewa Indians in and around Sault Ste. Marie. Whether the deed was delivered and/or accepted by the Governor is also unknown. Of course, once in the hands of the Governor, the lands were technically in fee status and subject to the payment of real property taxes, which taxes were subsequently never paid. As a result of the non-payment of taxes, the lands were forfeited and sold by the State of Michigan to third parties at tax sales, notwithstanding the Indians' interests in those lands. This is the background for what is known as a cloud on title as a result of the foregoing transactions.

In the late 1990's, litigation over those lands ensued, but did not result in clearing the cloud on the title to these Charlotte Beach parcels. The federal court litigation brought by the Bay Mills Indian Community, one of the modern political successors in interest to the two Bands for which the lands were originally withdrawn, was dismissed on procedural grounds for failure to join an indispensable party, the Sault Ste. Marie Tribe of Chippewa Indians, another modern day political successor in interest to whom the lands were also withdrawn. The State court litigation, also brought by Bay Mills, was dismissed on substantive grounds, but did not clear the landowners' title. Therefore, as of today, there has never been an adjudication on the merits of the Indians' claim to the Charlotte Beach parcels in private ownership. As a result, there is an outstanding cloud on title to these parcels, which will never be lifted absent congressional action extinguishing those claims. The cloud will never be lifted because tribes are immune from suit resulting from their sovereign status. Thus, any quiet title action by my clients (or any other Charlotte Beach landowner) against tribes designated to clear the cloud on title will not be allowed to proceed. At this point, and based upon previous litigation, it does not appear that any tribe will ever waive its immunity if such litigation were initiated. The cloud on title will remain unless cleared through congressional action.

The nature and extent of economic loss to my clients is devastating and overwhelming. The title to the Charlotte Beach parcels are subject to Indians' claims and are not considered marketable. As you no doubt appreciate, that means no present owner of a Charlotte Beach parcel is able to sell his or her property, since few if any buyers are willing to forego clear or marketable title. Title companies are unwilling to insure over the Indian claims even for an additional premium. Similarly, no Charlotte Beach parcel owner can use his or her land to secure any loan. Thus, not only can they no longer sell their land for its true value, they can no longer refinance any existing loan on their property. Theoretically, a Charlotte Beach owner could sell his or her land for cash, but of course few, if any, are willing or able to buy a parcel with cloud on title and without clear title. It is a rare purchaser willing to buy land known to be subject to a cloud on title which cannot be cleared absent an act of Congress. This is particularly true since litigation over the cloud on title has occurred and may occur again in the future.

This cloud on title is devastating to my clients. For most of my clients, their Charlotte Beach lots are the location of their primary residences and these residences are anything but glamorous. The lots are small and the homes are modest; indeed, many of the parcels are occupied by trailers or modular homes. These residents are good, hardworking people with meager resources. Their homes and parcels represent the bulk of their personal worth. They live in a poor rural area, where jobs are low

paying and hard to find. Suffice to say, these parcels and the homes located on them are neither large, nor glamorous. The owners can barely afford to attend court hearings in connection with litigation affecting their lands, let alone afford the legal fees required to protect their only real asset in life.

You will likely hear a variety of testimony today by many persons interested in the Bills before you. That testimony may come from down State political figures, such as Mayors of large cities in Michigan. It will probably come from publicly-traded corporations owning and operating casinos. Clearly, those persons testifying will have interests they wish to protect, for which they are not to be faulted. But, please, do not forget the real victims of the land claims dispute. The real victims are the property owners of the Charlotte Beach parcels, who bought homes with whatever resources were available to them, only to find out years later that there is a cloud on their title that relates back to the mid 1800's, and that the cloud has, as a practical matter, rendered their property difficult, if not impossible, to sell or collateralize. Had they foreseen litigation and the problems which ensued in conjunction with it, they may have taken a different path. Had they known in advance, perhaps they could have bought land elsewhere. Now, having purchased the land and subsequently learning of the defect in title, they are absolutely helpless to do anything about it. They have no money for legal fees. And even if they did, the money would do them no good, since there is no way to quiet title to lands against unwilling defendants which are immune from suit.

The only salvation for these innocent purchasers of Charlotte Beach land is for Congress to step in and extinguish the Tribes' claims to these parcels. Of course, the Tribes' interest in these parcels must be compensated, but we understand that the Bills before you would accomplish that, thereby passing the constitutional muster. We support the passage of these Bills that would clear the cloud on the Charlotte Beach parcels and allow my clients to go on with their lives, knowing that their homes will no longer be considered worthless or at least unsellable.

Thank you for accepting my testimony and allowing my clients' concerns to be brought to the Committees attention.

Mr. YOUNG. Mr. Chairman?

The CHAIRMAN. Yes? The Chair will recognize Ranking Member Young.

STATEMENT OF THE HONORABLE DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Mr. YOUNG. Mr. Chairman, I have a written statement I would like to issue for the record. First, let me congratulate Candice Miller for being on this issue for many years, and Mr. Bart Stupak, and of course the Chairman, John Dingell.

I know there are people that object to this legislation, but I have been involved in Indian gambling and the settlement of land trust and the recognition of tribes. If anybody has done this job, Bay Mills has done it. I understand those that oppose it, I have no argument with it or opposition, but I think Mr. Stupak made a point that we ought to consider because it is dear to my heart.

None of those people that are opposed to this issue live within the districts that this would affect. I think we should look at this as a committee and understand that this is, very frankly, about interest outside of this district, and some people will say it affects their district, also.

My argument, if we are to go forth with the original act, as Mr. Udall and I passed, then you should follow the rules, the recognition, and the designation of and completion of I think a legitimate concern and a legitimate solution of recognizing Bay Mills.

So, Mr. Chairman, I thank you for having this hearing. This is a very diverse panel in front of us today. I respect that, but again, keep in mind that justice should serve, and in this case I think this bill should pass through this body. Yield back.

[The prepared statement of Mr. Young follows:]

Statement of The Honorable Don Young, Ranking Republican, Committee on Natural Resources

Mr. Chairman, thank you for scheduling today's hearing on two Indian land claims settlement bills. I want to recognize your leadership in moving these settlements forward and I also want to salute my good friend and Republican Colleague, the Gentle Lady from Michigan (Candice Miller), for her persistence on the Bay Mills settlement. These settlement proposals have been pending for years and have been studied in past congressional hearings. Thus, I will my comments to a couple of points.

First, these bills enjoy strong support from the Members who represent land owners affected by the land claims and the communities where casinos would be built and operated. The Committee owes much deference to the views of the Members representing their constituents.

Second, these settlements were originally negotiated by former Governor John Engler and they are supported by the current Governor, Jennifer Granholm. Such continuity of support through two administrations, one a Republican and the other a Democrat, should be weighed heavily, especially by those Members like me who promote States' rights.

Finally, while most of the discussion is going to revolve around Indian gaming, I would urge my colleagues to consider that a failure to find an adequate land claims settlement will continue to have serious consequences on private landowners in Charlotte Beach, who have watched the value of their property plummet.

I look forward to hearing the testimony of today's witnesses.

The CHAIRMAN. Ms. Kilpatrick, you may proceed.

STATEMENT OF THE HONORABLE CAROLYN C. KILPATRICK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Ms. KILPATRICK OF MICHIGAN. Thank you, Mr. Chairman, Ranking Member Young, acting Ranking Member Heller and members of the Committee. Thank you for holding the hearing, first of all, and that it be in regular order and not snuck into a late night bill that is inappropriate. I do appreciate all of your support in scheduling this hearing.

I also want to thank Speaker Pelosi for helping us to settle this, and that we are here today to talk about these two pieces of bills. In essence, both of these bills will allow two Native American Tribes located in Michigan's upper peninsula to build casinos 350 miles from their reservation and 15 minutes from my district.

As you prepare for these hearings, I have provided each of you a notebook that goes into great detail on why we are opposing these bills. My reason for opposing these bills, which will allow land to be taken into trust for gambling purposes for the settlement of proposed land claims, are actually very simple.

These bills set a dangerous precedent for Congress. They contravene Michigan state law, they are very controversial among the tribes in Michigan and throughout Indian country, the Bureau of Indian Affairs has ruled against a similar casino in Romulus, Michigan, and finally, Congress has not had a comprehensive review of the IGRA in nearly two decades.

Perhaps it is time for that now. Furthermore, it is important to note that these land claims have never been validated by the U.S. Government or any court of law. In fact, the courts have ruled against the Bay Mills Tribe on their claims on two other separate

occasions. The people of Michigan have spoken at the ballot box about gaming and expansion in our state.

In the City of Detroit, we fought 20 years before we actually passed by the people and the legislature the right to have casino gaming. In 1994, the people of Michigan voted to allow three casinos in the City of Detroit. In 2004, the people voted to limit any more expansion of gaming unless there was a statewide referendum. This legislation circumvents that.

In addition, the Michigan Gaming Compact specifically prohibits off-reservationq gaming unless all tribes in Michigan share in the revenue. This legislation does not allow that. These two bills circumvent both the will of the people of Michigan and the compact that the Michigan legislature has made with the tribes in Michigan.

Instead, these bills will have Congress mandate not one but two off site reservation casinos located over 350 miles away from their reservation. Moreover, the disputed land is located near the two tribes' reservations in the upper peninsula, but yet the land they want for a settlement is located over 300 miles away.

If these bills were to become law what would prevent other tribes from seeking a land claim anywhere in the United States for off site reservation gaming? Is this the real intent of the IGRA? It is indeed ironic that in the 109th Congress the Congress Resource Committee at that time on a bipartisan basis passed legislation by an overwhelming margin to restrict off site reservation gaming, yet today it now seeks to expand gaming in an unprecedented manner.

Congress passed the IGRA in 1988 that allows tribes to conduct gaming on land acquired before October 17, 1988. In 1993, our former Governor Engler negotiated a gaming compact with the seven Federally recognized tribes in Michigan including Bay Mills and Sault Ste. Marie Tribes.

In order to prevent a proliferation of Indian gaming across the state, the provision was added to the compact that required any revenue generated by off-reservation gaming be shared by all 12 of the tribes. This legislation would take that out. Settled by our state, passed by our legislature that the proceeds would be shared, this legislation would not allow that.

The provision has worked for well over 15 years. The two bills before this committee will simply nullify this critically important provision of the Michigan Gaming Compact. These bills include gaming compacts in them that were never approved by the state legislature who has provided every other gaming compact.

It is important to know that Congress has never passed a gaming compact in the history of gaming. Those compacts have been regulated by the IGRA and the states which has its authority. In 2004, the voters of Michigan spoke again in a statewide referendum and overwhelmingly approved a ballot initiative that would restrict the expansion of gaming in the State of Michigan.

The ballot box is the solution to this matter. We in the State of Michigan have gone to the ballot box to discuss and solve this matter time and time again. I am aware that the Governor of our state has sent you a letter supporting these bills. That kind of baffles me. The gaming industry in Michigan has allowed $1.5 billion new dollars into our state coffers.

Because the automobile industry is suffering our state would be devastated by this loss of revenue. As my Chairman spoke, there have been studies, and we will identify the people who did the study. There are new gamblers. They are the same gamblers who move around, and not just in your district, not just in mine or the state, they move around the country.

You should know that there is no legal basis for the state to support these agreements. I believe the Governor has erred in this and must have made another deal that it is required by gaming institutions that they provide—and our state has one of the highest percentages that the gaming institutions pay—to our state coffers, to our local unit of government, higher than in some cases in Nevada.

The Chairman mentioned MGM as an outside agitator. MGM for over a decade now has been a very good citizen of not only our state but of our city; just recently, a new, permanent $800 million casino hiring over 2,000 workers. I do not think that is outside. I think they are very much a part of not just Detroit or Michigan, but of this community, and in particular, I am very upset with the Governor for having signed off.

I do not understand it. This will be revenue our state will lose. All of you know that Indian gaming casinos do not provide the same revenue that other casinos provide. It is a loss of tax revenue for our state, for our city. Ultimately, this will harm the state when compared to their private counterpart, Native American Gaming Site, because they are sovereign nations, as you know, they are required to share in the revenue.

As I have mentioned before, these two bills will destroy that. In the end, these two tribes are seeking to do an end run around two statewide referendums and the Michigan Gaming Compact of 1993. Rarely have voters in any state in this country spoken so clearly on gaming.

Michigan has time and time again. It would be a travesty for Congress to mandate two off site gaming casinos that would have such a negative affect on the people of Michigan and my district. The Bureau of Indian Affairs in essence affirms this position in your notebooks that was alluded to that I did provide. I wanted to make sure that the members had the information. On January 4 of this year, BIA rejected the casino in Romulus. I know you know that as well.

I thank the Committee for your time. We have much work to do. Michigan is in peril. The American automobile industry will never be what it once was, but we will survive. We do need new technologies, and a lot of that is going on. Work with us. Do not harm us. The tens of thousands of people who work in the industry are not required to do so when it becomes Native American gaming.

These are American companies doing America's business. How dare we take that right away from them? The investments that they have made in our state for over the last decade, how dare we look shakily upon them and treat them as if they are outsiders? They are citizens, they are taxpayers, they employ our constituents. I urge you, vote against this legislation. Do not move it on to committee.

Something is not right here. Let us review the compact that was settled some time ago; it has not been reviewed in 20 years. Per-

haps it does need updating. This is a committee. You have the responsibility. I thank you for your time. I am available to answer any questions that you might have, and I look forward to working with you.

The CHAIRMAN. Thank you, Carolyn.

[The prepared statement of Ms. Kilpatrick follows:]

Statement of The Honorable Carolyn C. Kilpatrick, a Representative in Congress from the State of Michigan

Chairman Rahall, Ranking Minority Member Young, and Members of the House Natural Resources Committee:

Thank you for holding this hearing today. I also want to thank Chairman Rahall, Ranking Minority Member Young, and Speaker Pelosi for scheduling this legislation in regular order. In essence, both of these bills will allow two Native American tribes located in Michigan's Upper Peninsula to build casinos 350 miles from their reservations and near the City of Detroit.

As you prepare for these hearings, I have provided each of you a notebook that goes into great detail my opposition to these bills. My reasons for opposing these bills, which will allow land to be taken into trust for gambling purposes for the settlement of proposed land claims, are actually very simple. These bills set a dangerous precedent for Congress; they contravene Michigan state law; they are very controversial among the Tribes in Michigan and throughout Indian Country; and finally, Congress has not had a comprehensive review of the Indian Gaming Regulatory Act (IGRA) in nearly two decades. Furthermore, it is important to note that these land claims have never been validated by the U.S. Government or any court of law. In fact, the courts have ruled against the Bay Mills Tribe on their claim on two separate occasions.

The people of Michigan have spoken at the ballot box about gaming expansion in our state. In 1994, they voted to allow three casinos in the City of Detroit. In 2004, the people voted to limit any more expansion of gaming unless there was a statewide referendum. In addition, the Michigan Gaming compact specifically prohibits off-reservation gaming unless all of the Tribes in Michigan agree to a revenue-sharing plan. These two bills are simply an attempt to circumvent both the will of the people of Michigan and the compact the Michigan State Legislature has made with the Tribes in Michigan.

Instead, these bills would have Congress mandate not one, but two off-site reservation casinos located over 350 miles away from the reservations of these Tribes. Moreover, the disputed land is located near the two Tribes reservations in the Upper Peninsula but yet the land they want for a "settlement" is located 350 miles away near the City of Detroit. If these bills were to become law, what would prevent other Tribes from seeking a land claim anywhere in the United States for off-site reservation gaming? Is this the real intent of the Indian Gaming Regulatory Act?

It is indeed ironic that in the 109th Congress, the House Resources Committee, on a bi-partisan basis, passed legislation by an overwhelming margin to restrict off-site reservation gaming. Yet today, it now seeks to expand Native American gaming in an unprecedented manner.

Congress passed the Indian Gaming Regulatory Act in 1988 that allows Tribes to conduct gaming on lands acquired before October 17, 1988. In 1993, former Governor John Engler negotiated a gaming compact with the seven federally-recognized Tribes in Michigan, including the Bay Mills and Sault Ste. Marie Tribes.

In order to prevent a proliferation of Indian gaming across the state, a provision was added to the compact that required any revenue generated by off-reservation gaming be shared among the Tribes who signed the compact. This provision has worked well for over 15 years. The two bills before the House Resources Committee would simply nullify this critically important provision of the Michigan Gaming Compact. Both of these bills would allow the Tribes to; 1) settle a land claim that has never been validated and is located near their reservations in the Upper Peninsula of Michigan and 2) acquire lands 350 miles from their reservation to build casinos. Furthermore, these bills actually include gaming compacts in them that were never approved by the Michigan State Legislature who has approved every other gaming compact. It is important to note that Congress has never passed a gaming compact in the history of Indian gaming. IGRA specifically grants that authority to the states.

In 2004, the voters of Michigan spoke again in a state-wide referendum and overwhelmingly approved a ballot initiative that would restrict the expansion of gaming

in the state of Michigan. This referendum would require local and state-wide approvals for any private expansion of gaming in Michigan.

The people and the elected officials of Michigan already have a solution to this matter—the ballot box. There is nothing in the referendum that would prevent the two Tribes and their non-Indian developers from initiating a statewide referendum to get casinos in Pt. Huron and in Romulus. In fact, both of those cities have already passed local referendums. But the Tribes and their developers decided to short-circuit the vote of the Michigan people and come to Congress to get a casino on a proposed land claim that is located near the Tribes reservation lands in the Upper Peninsula of Michigan.

I am aware that the Governor of Michigan has sent you a letter supporting these bills. You should know that there is no legal basis for the State to support these agreements because, in fact, the State has already won this case in the Michigan Court of Claims and the Bay Mills Tribe appealed it all the way to the U.S. Supreme Court. The Supreme Court subsequently declined to hear the case.

The Governor ignored the fact that the city of Detroit will be the main victim of the states largess in these casino deals. The city of Detroit will lose hundreds of millions of dollars as a result of the competition of these new casinos and that will cause irreparable harm. Harm to whom? Harm to the current investors of the casinos in the City of Detroit, who have invested more than $1.5 billion in the construction of the three casinos in the City of Detroit. Harm to the thousands of jobs that have been created and the tax revenue that those jobs generate for the City of Detroit and the State of Michigan. Ultimately, this will harm the State. When compared to their private counterparts, Native American gaming sites, because they are sovereign nations, and must share their revenue with other Native American tribes, do not bring in the tax revenue of private investors.

In the end, these two Tribes are seeking to do an end-run around two statewide referendums and the Michigan Gaming Compact of 1993. Rarely have voters in any state in this country spoken so clearly on gaming issues. In light of all of this, it would be a travesty for Congress to mandate two off-site reservation gaming casinos that would have such negative impact on the people in Michigan. The Bureau of Indian Affairs (BIA), in essence, affirms this position. In your notebooks, I have enclosed the January 4, 2008, rejection of a casino site in Romulus, Michigan by the BIA.

I thank the Committee for its time. Congress should not be in the business of handing out off-site reservation gaming casinos. It is my hope that the wisdom of the Committee and of Congress is the rejection of both of these bills for the following four reasons:

- These bills set a dangerous precedent for Congress by approving a compact which is a state, not a federal, responsibility;
- They contravene Michigan state law;
- They are controversial among the Native American tribes in Michigan; indeed, nine out of Michigan's 12 tribes oppose these bills;
- The City of Detroit would lose thousands of jobs and hundreds of millions of dollars in the investments made by the three casinos currently operating in Detroit;
- The Bureau of Indian Affairs has already rejected a similar application for gaming in Romulus, Michigan;
- These bills would involve the removal of valuable land from the tax rolls of the State of Michigan, resulting in the potential loss of even more revenue;
- Congress needs to revisit, revise and reauthorize the IGRA, which has not had a comprehensive review in nearly two decades.

Again, I thank the Chairman and the Ranking Minority Member for this hearing. The Committee must reject these bills based on the merit of the will of the people of the City of Detroit and the State of Michigan.

The CHAIRMAN. Mike.

STATEMENT OF THE HONORABLE MIKE ROGERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. ROGERS. Thank you, Mr. Chairman, and thank you for the opportunity to testify today. I have the deepest respect all of the members here. I agree with Mr. Stupak. This is more of a squabble

than it is a divide with us. It is an important issue, we have some strong disagreements, but we hopefully will come out stronger.

To Mr. Dingell, I have the utmost respect, but I do think Representative Kilpatrick is just right today on this particular issue. It is really not about the moral or ethical arguments about gambling, and I am going to bring a different approach I think to this debate. It will not be in my district, but we will be impacted by casinos coming to both of those towns.

The costs of adding new casinos are real, and they extend well beyond the cities that actually want those casinos to exist. It is the one kind of dirty little secret we never talk about when we talk about what happens when a casino comes to a town. The surrounding communities pay a price for them to be there.

Really, what that ought to be is a decision on behalf of the whole state. The reason that we regulate casinos so heavily, including the Detroit casinos, is because casinos coming to town bring a whole set of problems with it.

So the public said that if we are going to have those casinos, we need to have very tough regulation, we need to go from A to Z to make sure that the gamblers that walk in get a fair shake and the impact of crime and other things that we know happens as a result of these casinos is at least mitigated to the extent that we can.

Should Congress make that decision for the citizens of southeast Michigan? I think not, and I will tell you why. Michigan voters have spoken twice on this issue—twice. Once in 1996, and again in 2004. They said we want to make the decision about casinos, not individual towns, not individual townships, but the State of Michigan.

They were willing to make that investment in the City of Detroit in 1996 because they thought it would bring economic development to the city, and they make that set of determinations. Then afterward, the legislature set out some of the toughest regulation, of which I helped write by the way, in the country on those casinos to give at least a fighting chance to mitigate the troubles that we know happen with it.

These casinos, make no doubt about it, they say there is nothing in here about casinos, but then they talk about the 2,700 jobs that it is going to bring when they build a casino on this property, so we ought to stop fooling ourselves on what this is all about. These proposed casinos have very little to do with the tribes.

Both tribes have casinos, they are very well-respected, they do the right thing, but this is really about putting casinos down in southeast Michigan and having access to a market. That is what this is about. That is the very kind of thing that the citizens of Michigan voted in two statewide referendums to stop.

They wanted to be a part of the decision. So what Congress is saying today is that you, the 420 of you who will vote on this who are not from the State of Michigan, know better than every Michigan citizen in the State of Michigan. I think that is wrong. I think that is how Congress gets involved in things they ought not to be involved in.

This is a family fight. We should be making this decision across the State of Michigan given the wishes of the Michigan population. I have to tell you, there are some things and costs that, again. we

don't talk about. I am just going to talk about a couple. Studies clearly demonstrate the loss of economic output, cannibalization of small businesses that happen in surrounding communities.

The community that has it might have a short-term economic benefit. The communities surrounding those municipalities will suffer economic impact, and it is negative. Every study proves that. Increased government costs. Great study that came out said the government has to pay $6 in increased costs for every $1 of economic benefit from casinos.

You are going to upset our apple cart in southeast Michigan. More crime. Casinos raise crime rates over the long-term, and local governments are ill-equipped, especially now in the State of Michigan, to hire more police. Michigan has spent over $20 million in taxpayer dollars since 2001 trying to raise the awareness of the costs of gambling.

Nongamblers, people in my district, are paying those costs. They ran over 100,000 radio and print ads. Name another industry they have to do that. 350,000 problem gamblers in Michigan. There is a great Maryland study that shows each one of those problem gamblers costs the state an economic loss between $13,500 and $50,000.

That is real negative economic impact to the state. One in 20 people living near a casino will become problem gamblers. You do the math for metro Detroit. Despite what you have heard, these are not land swap bills. They are casino bills. If Congress allows this to go through it would drastically change how casinos can be approved all over the country. Make no doubt about it, Mr. Chairman, I do believe this is precedent setting, and it is really dangerous when we do this.

At a time when we need real IGRA reform, not new loopholes, this is really the perfect opportunity for you, Mr. Chairman, I hope to step back and say listen, IGRA does need some reform, and we can do this and put the kind of protections that say the City of Detroit casinos have in with these new casinos that are proposed around the country without violating the spirit of what IGRA was intended to do, which was help the tribes.

The compact agreed by the tribes and the state legislators specifically prohibits off-reservation gaming unless all tribes in Michigan agree to revenue sharing plan. That hasn't happened. So not only are you going to go against the wishes of the citizens of Michigan who voted in the statewide referendum twice, you are also going to go against the tribes in Michigan.

So this isn't just Republican and Democrat, this isn't Members of Congress. This is the citizens of Michigan and the tribes all think this is a bad idea. There are real economic and government costs to casinos. We ought to have the right to discuss them in our home state and determine what the impact is. Michigan voters said twice they want to have a say in casinos.

Casinos are complicated, risky propositions that need to be carefully studied and regulated. This process, Mr. Chairman, with no offense intended, doesn't give the citizens of Michigan that opportunity. This committee has a lot of important things to do. Is telling Michigan voters that Washington knows best really what we ought to be doing here today?

Mr. Chairman, I sincerely thank you for the opportunity to testify today and appreciate your thoughtful consideration of movement of the bills.

The CHAIRMAN. Thank you, Mike.

[The prepared statement of Mr. Rogers follows:]

Statement of The Honorable Mike Rogers, a Representative in Congress from the State of Michigan

Chairman Rahall and Ranking Member Young, I thank you for convening this hearing which will have a profound impact on the citizens throughout my home state of Michigan. Please let me be clear: this hearing should not be about moral or ethical arguments with regard to gambling. This hearing should be about the very real costs of adding new casinos in Port Huron and Romulus, which H.R. 2176 and H.R. 4115 aim to do. It should also be about how we measure these costs, who pays for these costs, and whether or not the benefits of these proposed casinos outweigh the costs.

Despite what you have heard, these are not simple land swap bills. They are casino bills. If Congress allows this legislation to go through, it will pave the way for two new off-reservation casinos in Port Huron and Romulus. It will also drastically change how casinos can be approved all over the country. At a time when we need real IGRA reform, not new loopholes for casinos, these two bills are severely misguided. It should also be noted that the bills violate a Michigan gaming compact, agreed to by the Tribes and the State Legislature, which specifically prohibits off-reservation gaming unless all Tribes in Michigan agree to a revenue-sharing plan. The two casinos in question today have ignored this important agreement and circumvented regulatory process.

Most importantly, it is important for this Committee to know that there are real economic costs and consequences to the bills before you today. I believe that it makes no economic sense to add more casinos in Michigan. First, new casinos in metro Detroit will ultimately result in the loss of economic output. Studies have consistently proven that gamblers lose their money and their jobs. In fact, one study in 2004 estimated that problem gamblers lose enough money to equal a new recession every four years. Imagine the consequences in Michigan, a state with an already struggling economy, if it were to lose even more economic output. Second, casinos have proven to have a limited economic benefit to the surrounding region. The problem is that while a new casino's host city may see short term economic growth, studies have shown the regional economy is negatively impacted in the long term. Jobs, business and tax revenue are simply taken away from one community and given to another. Third, government is forced to pay higher costs as a result of new casinos. Some have estimated that for every $1 of economic benefit created by a casino, it costs the government $6 to pay for problems associated with gambling, including crime and social services. Finally, it has been proven that casinos raise local crime rates over the long-term, and local governments are ill-equipped to hire more police and law enforcement in the long-term.

It is clear to me that Michigan is already paying for these kinds of costs. Since 2001, Michigan has spent over $20 million in taxpayer dollars trying to raise awareness about the costs of gambling. The state has run over 100,000 radio and print ads and maintained toll-free phone lines and counseling resources to deal with a spike in troubled gamblers. Today, there are over 350,000 problem gamblers in Michigan, and I fear that number will only grow should these two new casinos in Port Huron and Romulus move forward. Studies have shown that about 1 in 20 people living near casinos become problem gamblers. You do the math for the citizens of metro Detroit, and it paints a grim picture.

There is a reason our country regulates casino gambling, because there are costs. When Congress regulates things, it needs to take into account what happens to the region it is regulating. We would take into account the state and regional effect of a new smokestack in metro Detroit, but not a new casino? Clearly, there needs to be much more careful thought and analysis about these proposed casinos before they move forward.

Today, Congress must also consider what the region and the state of Michigan wants. In this case, Michigan voters have already made their voices heard loud and clear. In 2004, Michigan voters said they wanted to approve any new casinos by a statewide vote. This ballot initiative, passed by an overwhelming margin, applied to new non-Indian gaming. The legislation this committee has before it today would authorize two casinos that have very little to with their respective Tribes. In fact, the proposed casinos would be located 350 miles off-reservation. I would argue that

passage of these bills would directly undermine the voice of the citizens of Michigan and their desire to vote on any new casinos.

Mr. Chairman, there are real economic and government costs to casinos. And there are real problems with the two bills before you today. Casinos are complicated, risky propositions that deserve to be carefully studied and regulated by Congress. Michigan voters have already stated their opinion on adding new casinos, yet these bills roll back regulations and create a dangerous precedent for the future of our country. I would urge your Committee to oppose H.R. 2176 and H.R. 4115. Thank you for convening this hearing.

The CHAIRMAN. Candice.

STATEMENT OF THE HONORABLE CANDICE S. MILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Ms. MILLER. Thank you very much, Mr. Chairman, and Ranking Member Young and members of the Committee. I also want to thank you sincerely, really sincerely, for holding this hearing.

It is very, very important to my state, and I am here of course to urge you to approve both pieces of legislation that you are contemplating today, one of which would allow for a casino in the City of Port Huron, which is the city that I am very proud to represent here in the U.S. Congress.

Port Huron is a beautiful city. It is a very proud city. It has fallen on extremely difficult economic times. It is no secret as been mentioned here that the State of Michigan is in a recession. We have the highest unemployment in the nation, we have the lowest personal income growth in the nation, we have one of the highest foreclosure rates in the nation, and unfortunately, you can take all of those statistics to the City of Port Huron and literally double them.

Interestingly enough, Port Huron is one of the only United States border crossing towns on the northern tier of our nation where there is a casino on the Canadian side of the border and then not one on the American side.

In fact, that was the most persuasive argument I thought that the leaders of the City of Detroit used when they were allowed to have their casinos in the City of Detroit because all the Americans were simply spending all of our American money over on the Canadian side in Windsor, Ontario, in their casinos to the detriment of the City of Detroit.

Of course now that the City of Detroit has theirs, they don't want anyone else to have anything similar because in Port Huron you can simply look across the St. Clair River at the Canadian casino. In fact, if you are a pretty good golfer you can hit a golf ball—I couldn't do it, but some of you might be able to do it—and hit the sign that says casino that is blinking there. It is just 10 minutes away.

Eighty percent of the revenues in that casino come from the United States. This is a Canadian casino which gives back literally millions of dollars every single year to their local municipalities which is being used for police, or fire, or improving their schools, or their roads, or what have you and for further economic development as well.

All the City of Port Huron is asking for of the U.S. Congress is to approve a settlement which would allow the Bay Mills Indian Community to build a casino to generate jobs and revenue and allow them to work their own way back into some kind of economic activity, which certainly this casino would provide, and to help American citizens to do the very same for an American city that our Canadian counterparts right across the river are doing for their citizens.

Let me also make this committee aware of sort of a unique distinction in the City of Port Huron. It is home to the Blue Water Bridge, which is actually the second busiest commercial artery, commercial crossing, on the northern tier of our nation. The Federal government is in the process of very huge expansion of the existing footprint of the current bridge plaza.

In that process they will be condemning literally hundreds of acres of valuable residential property, and they are going to be taking it off the tax rolls of the City of Port Huron. We think this could have a significant negative impact on the city's ability to even survive.

It would seem fair that if the Federal government is forcing the city to live with this decision because it does benefit commerce between the United States and Canada that it would certainly be fair for the Federal government to try and compensate the city in some way, and passing this legislation would be a fantastic help.

I believe in representative government. I think all of us do. I think that most of us would agree that generally it is the Member of Congress in their particular district that understands what the people that live in that district want and how to best represent it. As has been pointed out, and I won't go into too much of this, but this legislation is settling a land claim that has been simmering for many, many years, decades.

It started during a time in our nation's history, not a very good time, actually, when Native Americans were routinely taken advantage of. In this case, a former Governor of Michigan promised the Bay Mills Indian Community a 110 acre parcel of property located in Mr. Stupak's district, but then the government seized the land from the tribe, and they sold it.

Subsequently, former Michigan Governor John Engler reached an agreement with the tribe to abandon its claim to that piece of property in exchange for some acreage in Port Huron, now my district. This agreement was also approved by the citizens of Port Huron in a citywide vote.

This legislation was also put forward first I believe for congressional approval by my predecessor, David Bonior, in the House, and Senator Stabenow in the Senate during the 107th Congress, and of course today being advanced in a bipartisan way.

This legislation, Mr. Chairman, and members of the Committee, is supported literally by every single elected official that represents the City of Port Huron in any capacity, and that includes the entire City Council, their County Commissioners, their state House members, their state Senator, certainly myself, both of our United States Senators, as well as our current Governor, Jennifer Granholm.

You can't find anybody in any elected capacity who does not support this. In this legislation we are not asking the Federal government or anybody else for a handout. We are simply asking for fairness. We are asking for an opportunity. This issue has absolutely zero to do with any kind of partisanship. Again, both Republicans and Democrats support the plan.

I will make one personal observation here, as been mentioned already by Chairman Dingell, but much of the opposition, not all of it, but much of the opposition is based purely on greed. It is all about the money and making sure that one part of the state can protect its revenue source from new competition and the heck with everyone else.

Mr. Chairman, Congress has lived through some extremely painful revelations in recent years, revelations about high paid lobbyists who tried to manipulate people and elected officials about casino gaming, and the face of that scandalous behavior is Jack Abramoff who successfully lobbied against the City of Port Huron on this very legislation during the 107th Congress.

I raise this because of a recent mailing that went out in Michigan, not by Jack Abramoff, but actually someone that has taken a page out of the playbook of Jack Abramoff, I believe. This is a copy of the mailed piece that was recently mentioned by Chairman Dingell. It is from Gambling Watch Michigan.

This is a group that is asking citizens to call Senator Levin, and Senator Stabenow, and Congressman Stupak, and Dingell and myself and to voice their objections about two new casinos. Of course they do not tell anybody any information, where these casinos are or any other background.

It is interesting, you know, the address actually of course is not from my district, or Mr. Stupak's, or Mr. Dingell's, it is from a different place, a different Member of Congress in Michigan. We had never heard of this group before, so we checked with the state. Here we find out their principals actually. They just incorporated two weeks ago.

The principal officer listed actually is a very well-known political consultant who has done extensive work on behalf of gambling interests in Michigan and whose husband is a lobbyist, works for a lobbyist firm, who represents, guess what, other casinos that are now operating in Michigan. Some would say spare me the righteous indignation about the values here.

These are from casinos who do not want fair competition. Mr. Chairman, and members of this committee, this legislation I believe is consistent with the provisions of IGRA. The gaming facilities that would be built are governed by IGRA rules.

Certainly, on behalf of the wonderful, hard working men and women of the City of Port Huron and Romulus as well I would ask you to give us the opportunity to help ourselves and in fairness and support this legislation. Thank you very much for the opportunity to testify today.

[The prepared statement of Ms. Miller follows:]

Statement of The Honorable Candice Miller, a Representative in Congress from the State of Michigan

Chairman Rahall, Ranking member Young and members of the committee

Thank you all for holding this hearing today. I am here to urge you to approve this legislation which would allow for a casino in the City of Port Huron, Michigan—a city that I am proud to represent in Congress.

Port Huron is a beautiful city, a proud city, which has fallen on extremely difficult economic times. It's no secret that my state is suffering from a recession—we have the highest unemployment in the nation, the lowest personal income growth in the nation, we have among the highest foreclosure rates in the nation, and you can take all of those factors into consideration and in the case of Port Huron, probably double them.

Interestingly enough, Port Huron is one of the only U.S. border crossing towns on the northern tier where there is a casino on the Canadian side of the border and not one on the American side.

In fact, that was the most persuasive argument that the leaders of the city of Detroit used when they asked to be allowed to have casinos in Detroit—because all the Americans were simply spending their money in the Windsor, Ontario casino—to the detriment of Detroit. Of course now that they have theirs, they don't want anyone else to have anything similar.

Because in Port Huron you can just simply look across the St. Clair River at the Canadian casino, just 10 minutes away, where 80% of their revenue is from Americans.

A Canadian casino which gives back millions of dollars each year to local municipalities which they use to pay for police or fire, fixing their roads, to support their schools or further economic development.

And all the city of Port Huron is asking for is for Congress to approve a settlement which would allow the Bay Mills Indian Community to build a casino—and generate jobs and revenue—and allow them to work their own way back into some economic activity which this casino will most certainly provide, and will help American citizens to do the same for an American city that our Canadian neighbors, right across the river, are doing for their citizens.

Let me also make the committee aware of a unique distinction in the city of Port Huron it is home to the Blue Water Bridge, which is the second busiest border crossing on the northern tier—and the federal government is in the process of a huge expansion of the existing footprint of the current bridge plaza—and in that process they will be condemning hundreds of acres of valuable residential property and taking it off the tax roles.

We think this could have a significant negative impact on the city's ability to survive and it would only seem fair that if the federal government is forcing the city to live with it's decision because it benefits commerce between the United States and Canada, then it would certainly be fair to try and compensate the city in some way, and passing this legislation would be very helpful.

I believe in representative government—I think we all do—and I think that most of us would agree that the Member of Congress, who represents a particular district, generally understands what the people of that district want—especially if it is an activity that has absolutely zero impact on another district.

So I would point out—that this legislation settles a land claim that has been simmering for many years—started during a time in our nation's history when Native Americans were routinely taken advantage of.

In this case—a former Governor of Michigan promised the Bay Mills Indian Community a 110 acre parcel of property—located in Mr. Stupak's district—but then the government seized the land from the tribe and sold it.

Subsequently, former Michigan Governor John Engler reached an agreement with the tribe to abandon its claim to that piece of property in exchange for some acreage in Port Huron, in my district

This agreement was also approved by the citizens of Port Huron in a city-wide vote. This legislation was first put forward for congressional approval by my predecessor David Bonior in the House and Senator Stabenow in the Senate during the 107th Congress

Today it is being advanced in a bi-partisan way by myself and Mr. Stupak.

This legislation is supported by every single elected official who represents the city of Port Huron in any capacity. That includes the entire City Council, the county commissioners, the state representatives, the state senator, myself, both United States Senators, Stabenow and Levin, as well as our current Governor Jennifer Granholm.

This legislation is not asking the federal government—or anyone else for a hand out—we are simply asking for fairness—and an opportunity

This issue has absolutely zero to do with partisanship—clearly both Republicans and Democrats support the plan.

But I will make a personal observation—and that is that most of the opposition is based purely on greed. It's all about the money and making sure that one part of the state can protect its revenue source from new competition—and the heck with everyone else.

Congress has lived through some extremely painful revelations in recent years revelations about high paid lobbyists who tried to manipulate people and elected officials about casino gaming—and the face of that scandalous behavior is Jack Abramoff—who successfully lobbied against the city of Port Huron on this very legislation during the 107th Congress.

And I raise this because of a recent mailing that went out in Michigan—not by Jack Abramoff—but by some who have taken a page out of his playbook

Here is a copy of that mail piece—from Gambling Watch Michigan—a group which is asking citizens to call myself, Mr. Stupak, Mr. Dingell and our two United States Senators and voice their objections to 2 new casinos.

They don't tell folks where they are; they just say we have enough casinos in Michigan. Sent from an address—not in my district, or Mr. Stupak's or Mr. Dingell's—it is in fact based in the district of another member from Michigan.

We had never heard of this group so we checked with the state on when they were registered and who their principles are. This group just incorporated about 2 weeks ago and their principle officer is a well known political consultant who has done extensive work on behalf of gambling interests in Michigan and whose husband is a lobbyist who works for a lobbying firm who represents—guess what—other casinos now operating in Michigan.

Casinos who do not want any competition.

Mr. Chairman and members of this committee—this legislation is consistent with provisions of IGRA—and the gaming facility that would be built would be governed by IGRA rules. On behalf of the wonderful, hardworking and self reliant people of the city of Port Huron I am asking you to give us the opportunity to help ourselves and support this legislation.

The CHAIRMAN. Thank you, Candice.

Our committee is very honored to have a second full committee Chairman with us today, the distinguished and honorable Chairman of our House Judiciary Committee, the gentleman from Michigan, Mr. Conyers. Welcome, John. You may proceed as you wish.

STATEMENT OF THE HONORABLE JOHN CONYERS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. CONYERS. Thank you, Mr. Chairman. I am so happy to be here and listen to all of you, your Ranking Member, Mr. Young, Mr. Heller, Dale Kildee of course, Dr. Christensen. This is a unique opportunity for us to get together. Actually, it is bringing the Michigan delegation together in ways that may not have been anticipated.

The CHAIRMAN. I am very honored that our committee could do that.

Mr. CONYERS. It doesn't happen too often anyway. I have never heard Mr. Rogers make a more persuasive presentation since he has been in the Congress. I want to commend him. His experience and training here has just been enormously beneficial to everybody in the state. I want to thank him personally for that.

Mr. ROGERS. Can I quote you often on that, Mr. Chairman?

Mr. CONYERS. I am not going to give out releases or quotes today, so I am afraid I will have to keep that secret in the room. Now, I started out, I was so relieved to find out that this wasn't about gaming. Then I find out that maybe there is a gaming aspect to this hearing. So you have a lot of work in front of you.

Then my chief of staff was in here for a few minutes, and I said, you know, this is a job for the Committee on the Judiciary. Here is the feds fighting state law, citizens resolutions.

We have an issue tailor made for the Judiciary Committee that if, in your wisdom, Mr. Chairman, you wish to refer this matter to the tender mercies of our committee, we would be happy to have joint jurisdiction or work this matter out because there seems to be a lot of problems. Is it the state law that is to be obeyed, is it the Federal Indian Reservation legislation, or is it the Congress of the United States?

This is a job for your committee on judiciary, and I urge you to keep that in mind.

The CHAIRMAN. With all due respect, Mr. Chairman, I think our committee is capable of handling it.

Mr. CONYERS. Well, I just want to help. I know you will do a good job. My confidence in you is unending. I think it has been noted by one of the members of the Committee, Mr. Heller, who observed that these bills are opposed by tribes in Michigan as well as all around Indian country including tribes in New Mexico, California, the United States southeastern tribes, all concerned with the precedent that would be set with the passage of these bills.

Of course there is a large issue. Is there any precedent setting involved in the consideration of this legislation or not? So even if we don't get jurisdiction, we are going to be watching carefully the legal ramifications of these conflicting kind of laws that are going to have to be resolved by this very important and distinguished committee.

So my statement comports with that that has been made by the Chairwoman of the Congressional Black Caucus, Carolyn Kilpatrick. I don't need to go over that part of it again, but this to me could strike some as a short circuited process and give away congressionally mandated casinos. I am not sure if we want to proceed down this road.

I am interested in the welfare of all parts of the State of Michigan's economic circumstances. We aren't here to benefit ourselves in the Detroit area to the detriment of anywhere else in the state. We are all in this together. I think this will be resolved by all of us together as well. So I thank you for this opportunity to join you this afternoon.

The CHAIRMAN. Thank you, Mr. Chairman.

[The prepared statement of Mr. Conyers follows:]

Statement of The Honorable John Conyers, Jr., a Representative in Congress from the State of Michigan

Mr. Chairman, Members of the Committee, I want to thank you for the opportunity to testify today in opposition to H.R. 2176 and H.R. 4115. These bills will allow two Indian Tribes from Michigan's Upper Peninsula to establish casinos in Romulus and Pt. Huron, Michigan.

It is not very often that I find myself disagreeing with my friends from the Michigan delegation, but today we do have very different views on these bills because they affect each of our districts in a very different way.

Mr. Chairman, I am opposed to the passage of these bills for a very simple reason—they threaten the economic future of the city of Detroit.

In 1994, the voters in the State of Michigan passed a statewide referendum to allow three private casinos to be built in the city of Detroit. During that campaign, the proponents argued that the passage of this referendum would spur economic development in Detroit, create well-paying jobs and benefits, and provide much-needed

tax revenues to the city coffers. I am pleased to report, Mr. Chairman, that the development has occurred and jobs have been created.

Since that referendum, over a billion dollars in new investment have poured into Detroit. In fact, just a few months ago, the MGM Grand opened up a new $800 million hotel and casino in the heart of the city. There is no question in my mind that MGM would never have made that kind of investment if it knew that Congress would be mandating additional casinos right outside the city borders.

The three Detroit casinos have also been responsible for creating nearly 10,000 new jobs in the city. I need not remind this Committee of the economic difficulties that our city has faced as a result of the decline in our automobile manufacturing base. These well-paying jobs, many of them union jobs, have also brought tremendous health care benefits to people who were in desperate need of quality health care coverage.

Finally, these three casinos have provided hundreds of millions of dollars in critically-needed tax revenues to the city of Detroit. I understand that last year the three casinos contributed over $450 million in direct taxes, fees, and assessments to State and local governments.

Mr. Chairman, what concerns me with these bills is that not only do they threaten the economic future of the city of Detroit, they also undermine the will of the voters in the State of Michigan.

In 2004, Michigan voters passed another statewide referendum that limits the expansion of private gaming in Michigan. Any new private gaming expansion must be approved by a local as well as statewide vote. This law would still allow the city of Pt. Huron and the city of Romulus to pursue casinos, but they would have to do exactly what the city of Detroit did—get the approval of the voters in the State of Michigan. It is my understanding that both cities have already passed local referendums—so they are already halfway there.

So the question I ask is why this Committee would attempt to favor one city over another. Shouldn't every city seeking a casino be required to go through the same process? I know these are Indian casinos, but Pt. Huron and Romulus are over 350 miles away from their reservations. This is not really Indian gaming.

It took years for the voters of Michigan to pass the 1994 referendum. But instead of following that common-sense process, we have legislation before your Committee that would short-circuit that process and give away congressionally-mandated casinos.

Mr. Chairman, I believe these bills are unfair to the city of Detroit and every other city in Michigan that wishes to have casinos—and believe me—there are a lot of them.

I understand these bills are opposed by Tribes in Michigan, as well as all around Indian Country—including Tribes in New Mexico, California, and U.S. Southeastern Tribes—which are concerned with the precedent that would be set with the passage of these bills.

For all of these reasons, I would encourage the Committee to reject these bills. Thank you.

The CHAIRMAN. Shelley, welcome to the Committee.

STATEMENT OF THE HONORABLE SHELLEY BERKLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Ms. BERKLEY. Chairman Rahall, Ranking Member Young, members of the Committee, I appreciate the opportunity to speak today on an issue that we have been dealing with for over five years now and keeps rearing its ugly head again and again.

I strongly oppose the bills offered by my good colleagues, Chairman Dingell and Congressman Stupak, that unfortunately offers a blueprint to any Indian tribe that wants to circumvent the laws regulating Indian gaming in order to build a casino outside the boundaries of its sovereign territory.

For those of you who are not aware, I represent Las Vegas, Nevada, the gaming capital of the world. I am living proof of the positive impact gaming can have on a community. When my father moved his family there 45 years ago on a waiter's salary he made

enough money to put a roof over our head, food on the table, clothes on our back and two daughters through college and law school.

Not bad on a waiter's salary. That is because we had a strong economy base on the gaming industry. So I certainly do not begrudge the Bay Mills or the Sault Ste. Marie Tribes, or the communities of Port Huron and Romulus, their desire to participate in this successful industry.

I do take issue with them attempting to flout the laws on Indian gaming, come to Congress for the worst type of special interest legislation and compete with existing facilities under a different set of rules. We already have a Federal law on the books that governs the process for approving gaming by Native American Tribes, the Indian Gaming Regulatory Act or IGRA.

The Bureau of Indian Affairs can approve gaming on newly acquired land taken into trust under very limited circumstances. In the case of Bay Mills and the Sault Tribes, each of which already has gaming on their reservation lands, a suspect land claim was used as a bargaining chip in settlements with the Governor in which the tribes agreed to renounce their claim and receive alternative properties which just so happen to be in locations more conducive to gaming, namely near the population center of Detroit.

In fact, a representative of the Sault Tribe described the deal as shady in his Senate testimony in 2002 before his tribe joined the party and stood to benefit from this agreement.

In addition to the suspect land claim, which has been tossed out of both the State and Federal Court—let me repeat this—a suspect land claim that has been tossed out of both State and Federal Court, the settlements reached with former Michigan Governor John Engler to allow gaming at Port Huron and Romulus, which incidentally are part of the ancestral lands of a different tribe, the Saginaw Chippewa, violates the Michigan Tribal Gaming Compact which requires that any new off-reservation gaming have the support of all the tribes in the state.

These settlements, as has been testified by others before me, do not have that support. Residents of Detroit can attest to the role gaming has played in transforming that city. The three new casinos employ more than 7,500 people in the city and contribute hundreds of millions of dollars each year in tax revenue to the city and the state.

The two proposed facilities will compete with the Detroit casinos for some of the same customers, but as sovereign tribal entities, without the burden of state and local taxes. In the last Congress this committee—this committee—approved legislation designed to crack down on this type of reservation shopping. It passed overwhelmingly with the support of the current Chairman, I might add.

The bills we are discussing today would have the exact opposite affect, paving the way for any one of the more than 500—500—recognized tribes to sue private land owners in an attempt to bargain for gaming elsewhere. Now, as the Chairman said, Congress has in fact legislated on these issues in years gone by, and that is the very reason that IGRA was passed, so to get Congress out of the business of deciding which tribe should have gaming and which tribes shouldn't.

I don't think this is an area that Congress ought to be insinuating itself. If you think that passing these pieces of legislation will not be setting a very dangerous precedent, well then, I think we are all kidding ourselves. Whatever the title of these bills, land claim, not land claim, make no mistake, these bills are Indian gaming bills.

Casinos will be built, and other tribes will demand the same preferential treatment being asked for by the Sault and Bay Mills Tribes today. Now, it is very interesting to me that people have intimated that gaming, gambling, is not mentioned in the title of these bills, but meanwhile, there was a study conducted to see if gaming in Romulus and Lake Huron would in fact compete with the casino revenue in Detroit.

So it seems to me that somebody is setting the table for something, and it is not inviting me to dinner. Now, I also find it very ironic, and you will forgive me for a moment, I am defending my state, but criticizing those that may not live in Detroit or in Michigan as opponents of this legislation, that doesn't seem to stop the proponents of putting nuclear waste in the State of Nevada, the fact that they don't live there or they don't represent Nevada, where 77 percent of the people that do live in Nevada are opposed to nuclear waste.

So I don't think that is an issue here. I have just as much a right to speak my mind in this piece of legislation as others have to speak their minds when it comes to nuclear waste. I am absolutely astounded that the name Abramoff has come up in relation to this legislation or any lobbying.

That man was shamed and shamed because he was lobbying on Indian gaming special treatment. I don't think that is a road that any of us want to go down here.

Now, to recap, Congress is being asked to pass special interest legislation benefiting two tribes, each of which already has gaming, based on a suspect land claim that has already been thrown out of State and Federal Court so they can open casinos hundreds of miles from their ancestral lands in direct competition with existing facilities that have helped revitalize a major American city.

Now, what is not to like about this legislation? So with that, Mr. Chairman, I thank you again for allowing me to testify. I urge that people put this legislation where it belongs and where the sun don't shine. Thank you very much.

[The prepared statement of Ms. Berkley follows:]

Statement of The Honorable Shelley Berkley, a Representative in Congress from the State of Nevada

Mr. Chairman and Members of the Committee, I appreciate the opportunity to speak today on an issue that we have been dealing with for more than five years now, and keeps rearing its ugly head again and again. I strongly oppose the bills offered by my colleagues Chairman Dingell and Congressman Stupak that offer a blueprint to any Indian tribe that wants to circumvent the laws regulating Indian gaming in order to build a casino outside the boundaries of its sovereign territory.

For those of you who are not aware, I represent Las Vegas, Nevada, the gaming capital of the world. I am living proof of the positive impact gaming can have on a community—my father brought us to Las Vegas when I was a child and put food on the table and two kids through college and one through law school on a waiter's salary. I certainly don't begrudge the Bay Mills and Sault Ste. Marie Tribes, or the communities of Port Huron and Romulus, their desire to participate in this successful industry, but I do take issue with them attempting to flout the laws on Indian

gaming, come to Congress for the worst type of special interest legislation, and compete with existing facilities under a different set of rules.

We have a federal law on the books that governs the process for approving gaming by Native American tribes—the Indian Gaming Regulatory Act. Under IGRA, the Bureau of Indian Affairs can approve gaming on newly acquired land taken into trust under very limited circumstances. In the case of the Bay Mills and Sault Tribes, each of which already has gaming on their reservation lands, a suspect land claim was used as a bargaining chip in settlements with the Governor in which the tribes agreed to renounce their claim and receive alternate properties which just so happen to be in locations more conducive to gaming, namely near the population center of Detroit. In fact, a representative of the Sault Tribe described the deal as "shady" in his Senate testimony in 2002, before his tribe joined the party and stood to benefit.

In addition to the suspect land claim, which has been tossed out of both state and federal court, the settlements reached with former Michigan Governor John Engler to allow gaming at Port Huron and Romulus (which incidentally are part of the ancestral lands of a different tribe, the Saginaw Chippewa) violate the Michigan Tribal Gaming Compact, which requires that any new off-reservation gaming have the support of all tribes in the state. These settlements do not have that support.

Residents of Detroit can attest to the role gaming has played in transforming that city. The three new casinos employ more than 7,500 people in the city and contribute hundreds of millions of dollars each year in tax revenue to the city and the state. The two proposed facilities will compete with the Detroit casinos for some of the same customers, but as sovereign tribal entities without the burden of state and local taxes.

In the last Congress, this Committee approved legislation designed to crack down on this type of reservation-shopping. It passed overwhelmingly, with the support of the current Chairman, I might add. The bills we are discussing today would have the exact opposite effect, paving the way for any one of the more than 500 recognized tribes to sue private landowners in an attempt to bargain for gaming somewhere else.

To recap: Congress is being asked to pass special interest legislation benefiting two tribes, each of which already has gaming, based on a suspect land claim that has already been thrown out of state and federal court, so they can open casinos hundreds of miles from their ancestral lands, in direct competition with existing facilities that have helped revitalize a major American city. What's not to like?

Mr. Chairman, thank you again for allowing me to testify today.

The CHAIRMAN. The sun always shines in Las Vegas, doesn't it? The Chair is very honored, matter of fact our committee is honored, to have mentioned two full committee Chairmen that are with us. We have a third full committee Chairman, which may be precedent setting, although this legislation is not precedent setting, but the Chair is very happy to welcome the distinguished Chairman of our Homeland Security Committee, the gentleman from Mississippi, Mr. Bennie Thompson.

Chairman Thompson, welcome.

STATEMENT OF THE HONORABLE BENNIE G. THOMPSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. THOMPSON. Thank you very much, Mr. Chairman, and other members of the Committee. At the risk of being repetitive I will basically summarize my comments. I am not here as Chair of the House Homeland Security Committee. I am here today as Chair of the Congressional Black Caucus Gaming Task Force.

We have 15 members of that task force. I chair. I have 24 operating casinos in my congressional district. Next to my colleague from Las Vegas, I am number two. For once in my life, Mississippi is on top. I am happy. Gaming has meant a lot to that. I come here

today opposed to the two current bills being considered before the Committee today.

Both bills would allow the development of off-reservation casinos in the State of Mississippi. I want to begin by affirming that I wholeheartedly support Native American issues ranging from the improvement of health, education and housing. It is clear that these issues cannot properly be addressed without economic development activities including on site gaming, which many tribes currently enjoy.

To me, for this debate the key word, Mr. Chairman, is on site gaming, gaming that is carried out, previously established reservation as described in regulations set forth by the Department of Interior, Bureau of Indian Affairs. The two bills in discussion today provide tribes with land designation off reservation for the primary purpose of developing casinos.

This is a process which is commonly referred to as reservation shopping where tribes attempt to seek designation of sovereignty of lands not currently within their legal tribal reservation for the sole purpose of establishing a gaming facility. I think, Mr. Chairman, even though the language might not say it, the clear intent of this whole legislation is to establish gaming.

What we are trying to do by doing that is circumventing the Bureau of Indian Affairs and clearly the Indian Gaming Regulatory Act by awarding this issue to a tribe that is trying to get designation 300 miles from their reservation. This is a clear case of reservation shopping. One of the most blatant in the history of the Indian Gaming Regulatory Act.

The proposed legislation is contrary to the intent of the Indian Gaming Regulatory Act and would establish a precedent that would undermine the Act itself. So in summation, Mr. Chair, I would recommend that the Committee not send these bills forward as they deeply trouble a lot of us because they are precedent setting and for the most part undermine the Indian Gaming Regulatory Act by establishing reservation shopping. Thank you very much.

[The prepared statement of Mr. Thompson follows:]

Statement of The Honorable Bennie G. Thompson, a Representative in Congress from the State of Mississippi

Good morning, Mr. Chairman and Members of the Committee. I am Congressman Bennie G. Thompson, representing the Second Congressional District of Mississippi, and though I Chair the Committee on Homeland Security, I come to you today as the Chair of the Congressional Black Caucus Gaming Task Force and the representative of 24 casinos in my Congressional District. There are 15 members of the CBC Gaming Task force, many who have operating casinos in their district both tribal and non-tribal and a few who have referendums pending in their Districts for both tribal and non-tribal gaming enterprises.

I come to you opposed to the two current bills being considered in Committee today, H.R.2176 and H.R. 4115—both which would allow for the development of off-reservation casinos in the State of Michigan.

I want to begin by affirming that I wholeheartedly support Native American issues, ranging from the improvement of health, education, and housing. It is clear that these issues cannot be properly addressed without economic development activities, including on-site gaming which many tribes currently enjoy.

To me, the key word is on-site gaming; gaming that is carried out on previously established reservations as described in regulations set forth by the Department of Interior, Bureau of Indian Affairs.

The two bills in discussion today provide tribes with land designations off-reservation for the primary purpose of developing casinos. This is a process which is commonly referred to as "reservation shopping"—where tribes attempt to seek determinations of sovereignty on lands not currently considered within their legal tribal reservation for the sole purpose of establishing a gaming facility.

There are some who would have you believe that this legislation is about helping tribes who seek to have this land located hundreds of miles from their reservations approved as reservation lands; however, these bills have nothing to do with settling a legitimate land claim. Plain and simple, these bills are all about expanding off-reservation gaming in Michigan.

Furthermore, the Bay Mills Indian Community and Sault Ste. Marie of Chippewa Indians have no historical or ancestral ties to the land on which they want to build casinos in Port Huron and Romulus. There is concern, even among other Native American tribes, that off-reservation casinos weaken public and government support for Indian gaming and undermines the purpose of the Indian Gaming Regulatory Act (IGRA) which is to promote development of strong reservation economies through "on-reservation" casinos. Also, it has been noted that other tribes opposed to off-site gaming feel that our actions today will invite disputes among tribes when the locations is close to more than one tribe that has a significant historical connection and leads to an a proliferation of casinos in urban areas.

The Bureau of Indian Affairs has ruled against several of these applications that constitute "reservation shopping" This is not a new issue. In fact, legislation has been proposed in the past to eliminate the practice of "reservation shopping".

These bills allow two Michigan Tribes to abuse a loophole in the Indian Gaming Regulatory Act (IGRA) to conduct gaming on lands that are over 350 miles from their reservations. This is clear case of reservation shopping; one of the most blatant in the history of the IGRA. The proposed legislation is contrary to the intent of IGRA and would establish a precedent that would undermine the Act.

I would urge the Committee to not send these bills forward as I am deeply trouble and concerned with the precedent that would be set with the passage of these bills. I encourage the committee to reject these bills.

Thank You.

The CHAIRMAN. The Chair wishes to thank all of the panel for taking the time to be with us today. I have no specific questions, but I do feel it appropriate to make a comment at this point for the record, and that is to state that the allegations that these two bills constitute off-reservation casino shopping, in this Chair's opinion and the record I think will clearly show, does not have merit.

These are efforts to settle legitimate land claims of the two tribes involved. In previous cases there may not have been land claims involved where the allegations of off-reservation shopping are made. Resolving Indian land claims is something that is vested with the Congress, and the Congress has resolved these types of claims on numerous instances.

I do have a list before me of 14 such instances where these type of land claims have been settled by the Congress. The legitimacy of the land claims that are the subject of the two bills before us has been recognized by two Governors of the State of Michigan, as has been referenced already, Republican John Engler and current Democratic Governor, Jennifer Granholm.

Indeed, the current Governor, Jennifer Granholm, stated in a letter addressed to Ranking Member Don Young and myself, "The Federal Courts have held that both the Bay Mills Tribe and the Sault Tribe trace their ancestry to the two Chippewa bands named in the deed to the disputed Charlotte Beach lands and that both tribes accordingly share in any potential claim based on those lands."

I have no reason whatsoever to doubt the integrity of these two Governors of Michigan, nor from the historical and judicial record

to doubt the legitimacy of these land claims. There is an effort afoot to equate this matter with the off-reservation policy issued by the Interior Department on January 3 of this year, and the denial of any off-reservation land into trust applications announced by the Interior Department as a result of that policy.

This is mixing apples and oranges. Not one of those denied applications involved the settlement of Indian land claims. So I just wanted to set the record straight on that record and present the record for this committee taking up this legislation.

I recognize the Ranking Minority Member.

Mr. YOUNG. Yes. Mr. Chairman, thanks for that comment because I have listened to the testimony of the witnesses and each one has their own beliefs, but this is not shopping. That is number one.

Candice, you referred to it. At one time there was how many acres? Who has got that cell phone on?

Ms. MILLER. It wasn't me.

Mr. YOUNG. All right. Good. Didn't the Bay Mills Tribe, it was called something different, they were granted, I don't know what year, so many acres of land and that was taken and sold. Then there was a settlement, where?

Ms. MILLER. It was 110 acres, actually. This was back in the 1850s I believe.

Mr. YOUNG. Charlotte Beach. One hundred ten acres. OK. Then?

Ms. MILLER. The state government of Michigan, the Governor at that time said that they were going to allow this for the Indian tribe, and the Governor at that time back in those years——

Mr. YOUNG. 1855.

Ms. MILLER.—seized that land. They seized it, they stole it from the Indians and they sold it.

Mr. YOUNG. And then the land, sort of a settlement. They had the land they sold. Has there been any compensation or any land giving for that 105 acres?

Mr. STUPAK No.

Ms. MILLER. No. Not that I am aware of, no. One hundred ten acres.

Mr. YOUNG. All right. Again, I appreciate everybody testifying in this legislation. Like my good Chairman, Mr. Conyers, said, it is the first time I have seen so many Michigan people in the same room at the same time. Six and six is pretty good.

Mr. ROGERS. You can see us at the car show.

Mr. YOUNG. Yes. The other question I have from anybody on the panel, I heard some question about sharing from Mr. Rogers. What percentage do the existing Indian tribes' casinos share with the other tribes now that don't have gambling?

Mr. ROGERS. Not sure I understand your question, but I wouldn't know the percentage.

Mr. YOUNG. Well, you said there was no sharing under the provision of these two bills. Is that in lieu of the fact that there was sharing from the other tribes.

Mr. ROGERS. The agreement under the compact was that all tribes share in the revenue of new casinos.

Mr. YOUNG. And are they doing that?

Mr. ROGERS. That I can't speak to. I think there is a panel next that will speak to that.

Mr. YOUNG. OK.

Mr. STUPAK Mr. Chairman?

Mr. YOUNG. Yes?

Mr. STUPAK A new casino just opened up in my district off reservation. Nobody objected to it. They are doing quite well. They are not sharing the revenue from that casino with the other tribes in Michigan.

Mr. YOUNG. Now, following that question, it is my understanding that this agreement or this was to become legislation. I am not kidding you, I agree it is a gambling bill. I know that is where the Chairman is coming from, and the good lady from Nevada, and the good gentleman from Nevada. It is a gambling bill.

It is my understanding this is a greater sharing under this provision than in existing casinos within the State of Michigan to the state and the local governments.

Mr. STUPAK Mr. Young, when the three casinos in Detroit opened up the Native Americans then no longer had to pay their eight percent to the State of Michigan. That was always the agreement. Once they lost their exclusive right to game in Michigan that eight percent went out the window. Michigan stopped collecting it.

In the settlement agreements negotiated between Governor Engler and reaffirmed by Governor Granholm if these two tribes, the Sault Tribe and Bay Mills, allowed to open a casino, let us say Romulus and let us say Port Huron, they then have to pay at least eight percent, and it might even be more now, to the State of Michigan while the other casinos that are operating would not have to.

That is why the State of Michigan, it is a windfall for them in a way. They are paying a special tax on these two casinos that the other casinos are not paying.

Mr. YOUNG. Just one last question, Mr. Chairman. Candice, you have mentioned the fact there is, I think I saw a picture of it, a Canadian casino right across the creek.

Ms. MILLER. Across the St. Clair River.

Mr. YOUNG. What about the chances the Canadians coming down and spending their dollars in America after we open this casino up?

Ms. MILLER. Well, I will tell you. Interestingly enough, because of the difference between the Loon——

Mr. YOUNG. Value of the dollar.

Ms. MILLER.—and our dollar right now, that was some of our biggest revenue that was happening—in the City of Port Huron we have a large mall there—during the Christmas shopping rush because they were coming across. So it would be wonderful if we could get them to come and spend some of those Canadian dollars in an American city on this because, as I say, fully 80 percent—this is not about all these other studies, but I can tell you the study of this particular casino across the river—80 percent of all those revenues are U.S. dollars that are being spent right there.

I mean, you can see just as clear. You are standing right there looking at it. That is how close it is.

Mr. YOUNG. Last, Mr. Chairman, I said that a moment ago, but last, I am an old duck hunter. I found out the best way to get a

lot of ducks is have a lot of decoys on the water. You may not like gambling, Mr. Rogers, and I understand that, but the idea that competition is not good I think is dead wrong.

I think you will find out that in reality this will increase all the revenues to all the gambling casinos. I know there are those that don't approve of gambling, and I understand that. I don't buy the argument this is unfair competition, or they are getting a break, or any other type. I think this will actually be a plus for the industry itself, and I think it will be good for the communities.

Again, these are communities that yes, the state voted on it, and those that run that campaign already have theirs. They want to pull the plank up and let no one else in the program. So, but I don't buy the idea that competition is bad.

Mr. Chairman, I yield back.

The CHAIRMAN. The gentleman from Michigan, Mr. Kildee.

Mr. KILDEE. Just very briefly. Mr. Stupak, the people on the Charlotte Beach land right now, you indicated there is a cloud over their title to the land.

Mr. STUPAK Correct.

Mr. KILDEE. Is it not true that only Congress can extinguish land claims? It can't be the Bureau of Indian Affairs or the Department of the Interior. Under the Indian Regulatory Act, only Congress. That is why it is before this body.

Mr. STUPAK That is true under approximately 180 land owners on Charlotte Beach who have devalued property, property devalued by as much as 90 percent because of this cloud on the title. Everyone up there including the tax assessor recognize the valid claim of the two tribes on property on Charlotte Beach.

Mr. KILDEE. And they can't go to BIA or Department of Interior?

Mr. STUPAK They can't go BIA or anywhere.

Mr. KILDEE. Only this body can extinguish that land claim?

Mr. STUPAK The U.S. Congress is the only one that can extinguish a land claim.

Mr. KILDEE. Thank you. Thank you. I yield back.

The CHAIRMAN. The gentleman from Nevada, Mr. Heller.

Mr. HELLER. Thank you, Mr. Chairman. I want to express my appreciation to Chairman Young calling this exactly what it is, and that is a gambling bill. I want to respectfully disagree, maybe very respectfully disagree with you, Mr. Chairman, on perhaps the fact that we have a different definition of competition.

I think competition has an even playing field. For competition to in fact bring in more revenues I believe that everybody has to be on the same playing field. The fact that some pay taxes, some do not pay taxes differentiates between those that can succeed and those who can't succeed, so as long as the playing field is even.

I hear the proponents of this continue talking about this having nothing to do with gaming or casinos. Yet, I look at both of these bills, H.R. 4115 and H.R. 2176, and on page three of both of these they have a provision specifically talking about gaming. We could make everybody happy, Mr. Chairman, and maybe you would agree and maybe the proponents would, just to take this section out.

Then we can make it a specific land bill. I don't know if there is any disagreement with that, and I would love to have responses to that. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from Hawaii, Mr. Abercrombie.

Mr. ABERCROMBIE. Yes. Thank you, Mr. Chairman. By the way, I just want to make certain of this because our distinguished guests may not be familiar necessarily of what this committee does ordinarily and routinely, although the solution to these bills is never routine, which is the land claim question.

It is a real sensitivity for this committee. Now, there may be all kinds of difficulties and challenges locally in terms of the gaming or the circumstances of it, taxation. All that, at least I think has been the record of this committee, that gets settled locally. We don't try to impose that on anybody.

Whatever Michigan, either by way of the cities, or the states, or the localities and so on, have gone through, that is your business. It is our business on the land claims. That is the underlying rationale for this committee's jurisdiction with respect to the Constitution. These two bills are fundamentally land claim settlement.

Now, what goes into that settlement I think has to be determined by you folks in the Michigan area. I am very sensitive to what Representative Shelley Berkley was talking about having voted with you on the Yucca Flats situation because I believe that it is imposing it on Nevada. I don't think that is right.

Being in the hospitality industry ourselves, right, we have made a decision on gambling in Hawaii which benefits Las Vegas because a significant portion of revenue that goes into Las Vegas I can assure you comes from Hawaii. We have specific airplane operations in hotels there in Nevada, and in Las Vegas in particular, that do a major portion of business with people from Hawaii.

So these things have to get settled that way. So believe me, I understand that. Our fundamental jurisdiction is on land claims. We have to judge that objectively on the basis of what the land claim legislation is. When that is done, and so I don't mislead anybody, I am inclined to be supportive of this and I have my own parochial interest as well because the native Hawaiians are trying to go through exactly the same thing right now.

They have historic claims that need to be settled, and we are struggling to find legislative venues that will allow us to settle this issue. Now, not everybody is going to be happy with what comes out of the settlement. That remains for the politics of the situation in terms of resolving it. Our duty in this committee is to take votes on the merits or demerits of land claims legislation.

If that is the case, I am inclined to support it because I think it would be hypocritical of me to ask for the consideration of other Members of Congress with regard to land claims legislation in Hawaii and then turn around and not be able to make a judgment which I believe is our obligation and duty in this committee with regard to this legislation. You can comment if you want.

Mr. STUPAK You have indicated that the State of Michigan may have had other laws, and it has been alluded by some of the members up here that in 2004 Michigan passed a law requiring voter approval and therefore there should be a statewide initiative.

I would like to submit for the record the 2004 statewide ballot proposal which says proposal to amend state constitution to require voter approval of any form of gambling authorized by state and certain new state lottery games, specifically that the voter approval

requirement does not—does not—apply to Indian tribal gaming or gaming in up to three casinos located in Detroit.

So while they are saying that we passed a statewide initiative banning any new forms of gaming, it did not apply to Native American Indian gaming. I just wanted to clarify it for the record as Chairman had done earlier as part of the record.

Proposal 04-1

REQUIRING VOTER APPROVAL FOR NEW FORMS OF GAMBLING

Official ballot wording:

PROPOSAL TO AMEND THE STATE CONSTITUTION TO REQUIRE VOTER APPROVAL OF ANY FORM OF GAMBLING AUTHORIZED BY LAW AND CERTAIN NEW STATE LOTTERY GAMES

The proposed constitutional amendment would:

- *Require voter approval of any form of gambling authorized by law after January 1, 2004.*
- *Require voter approval of any new state lottery games utilizing "table games" or "player operated mechanical or electronic devices" introduced after January 1, 2004.*
- *Provide that when voter approval is required, both statewide voter approval and voter approval in the city or township where gambling will take place must be obtained.*
- *Specify that the voter approval requirement does not apply to Indian tribal gaming or gambling in up to three casinos located in the City of Detroit.*

Should this proposal be adopted?

Yes_____ No_____

Mr. ABERCROMBIE. I will just leave it at that. In some respects that is making my point to me. I think that is entirely up to you folks. I am not going to comment on any of that any more than I would like you, as some people have done, to try to come out to Hawaii and tell us what we should be doing with the ceded lands and the Hawaiian homelands.

Everybody, believe me. For those of you who haven't been through this with our committee, every single bill that comes up on land claims has its own unique properties, and no pun intended on that. I mean, it has its own unique history, it has its own unique challenges and nothing is ever the same. Nothing is without its almost incredibly convoluted history that has to be resolved one way or another.

So it comes down basically to land claims legislation and land settlement. Then, what happens as the result of that I think is up to local authority and for you folks to work out yourselves. Thank you, Mr. Chairman.

The CHAIRMAN. Gentlelady from the Virgin Islands, Ms. Christensen.

Ms. CHRISTENSEN. I don't have any particular questions for our distinguished panel, but just in response to Mr. Heller's comment, it seems to me that I recall that in another hearing with another tribe that was seeking Federal recognition we did, and they did agree that gaming would not be a part of that agreement to have them recognize.

As you know, I think that, as Mr. Thompson and others have said, we really stand by our Native American Tribes, and their sovereignty and the need for a settlement, but I have not yet been convinced, I am waiting to hear the other testimony, that this would not be extremely damaging to Detroit and to some of its surrounding areas.

I will listen to the testimony, and I will have questions for some of our other witnesses.

The CHAIRMAN. If I might respond to you, Donna. Those bills to which you referenced in previous legislation of this committee concerned nonFederally recognized tribes. These are Federally recognized tribes and therefore involve legitimate land claim disputes.

Ms. CHRISTENSEN. My issue is not with the land claims. It was with the gaming part.

The CHAIRMAN. I just want to distinguish between what you were referencing.

Ms. CHRISTENSEN. Thank you.

The CHAIRMAN. The Chair will recognize the gentlelady from California, Ms. Napolitano.

Ms. NAPOLITANO. Thank you, Mr. Chair. I really don't have many questions because I have been listening intently in my office.

I have long been antigaming with the exception in the areas where it has been a necessity because the Federal government has always ignored services to the Native Americans, and that happened to be something that California went through many years ago when they started establishing their casinos and their gaming.

My contention was if they can help themselves, then I will support in them in that, but when it comes to major gambling, major gaming, I have been involved in stopping those processes within

my own community twice and adjoining communities several times because of the fact that it is an unfortunate thing that happens, people get addicted to gambling.

Many have come before at the time I was on City Council and indicated to us openly that they had lost their homes, their business, their families because of their gambling habit. So to me it is a two-edged sword.

Native Americans have been very successful, especially in California, in helping other tribes, in establishing medical facilities for themselves and their community, for educating their children and being able to at least pull themselves out of certain poverty if you will.

So I, too, will look forward to the rest of the testimony because while I do support land transfers that are legitimate, and we have gone through those in this committee as was indicated by the Chair, but there is certainly something in what Mr. Heller says and what my colleague, Ms. Christensen, indicates is if the gaming portion is taken out, would this still be a viable solution for the tribes? Thank you, Mr. Chair.

The CHAIRMAN. Thank you, Grace.

With the agreement of members of the Committee, the Chair would like to invite the members of this distinguished panel, each of you, to join us on the podium here as we hear from the rest of the panels today.

You will be recognized for questions from the rostrum here after of course members of the Committee are recognized. So anybody that wants to join us is welcome to unless there is objection from our colleagues. Thank you.

The Chair will now call our second panel composed of one individual, The Honorable Carl Artman, who is the Assistant Secretary, Bureau of Indian Affairs, United States Department of Interior, Washington, D.C.

Mr. Secretary, we welcome you to the Committee. We have your prepared testimony. It will be made a part of the record as if actually read, and you may proceed as you desire.

STATEMENT OF THE HONORABLE CARL ARTMAN, ASSISTANT SECRETARY, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR, WASHINGTON, D.C.

Mr. ARTMAN. Good afternoon, Mr. Chairman, members of the Committee. My name is Carl Artman, and I am the Assistant Secretary for Indian Affairs at the Department of the Interior. I am pleased to be here today to testify on H.R. 2176 and H.R. 4115.

Through the legislation Congress had approved and ratified agreements executed in 2002 between the State of Michigan and the Bay Mills and Sault Ste. Marie Tribes alternate lands would be provided to each in consideration for extinguishing the tribes' claims to the Charlotte Beach, Michigan, lands.

The Department does not support these bills for several reasons. The mandatory nature of the land acquisition provisions would require that alternative lands be taken into trust even if NEPA liabilities existed on these lands. We recommend that any acquisition in trust be conditioned upon the lands meeting applicable environmental standards.

The mandatory nature of the land acquisition would preclude consultation with affected tribal, state and local governments that takes place under our 151 regulations. In addition, Section 2710[d] of the Indian Gaming Regulatory Act requires a tribe and state to enter into a compact approved by the Secretary, and that notice of such approval be published in the Federal Register before Class III gaming occurs.

The settlement agreements include many provisions commonly found in tribal state gaming compacts under the Indian Gaming Regulatory Act. Finally, we are concerned with the lack of consultation with other Michigan tribes that may be impacted by the terms of these settlements since the legislation would waive Section 9 of the Michigan compacts to the extent it is implicated by the settlements.

This concludes my oral statement, and I will be happy to answer any questions that the Committee may have.

[The prepared statement of Mr. Artman follows:]

Statement of Carl Artman, Assistant Secretary—Indian Affairs, U.S. Department of the Interior

Good afternoon, Mr. Chairman and Members of the Committee. My name is Carl Artman and I am the Assistant Secretary—Indian Affairs, at the Department of the Interior. I am pleased to be here today to testify on H.R. 2176, a bill to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community, and on H.R. 4115, a bill to provide for and approve certain land claims of the Sault Ste. Marie Tribe of Chippewa Indians. Because of the potential for liability to the United States, and because the settlement agreements go beyond those required for the settlement of a land claim and circumvent an established process, the Department cannot support these bills.

Background

H.R. 2176 would approve and ratify an agreement executed on August 23, 2002, between the Governor of the State of Michigan and the Bay Mills Indian Community. H.R. 4115 would approve and ratify an agreement executed on December 30, 2002, between the Governor of the State of Michigan and the Sault Ste. Marie Tribe. The settlement agreements provide the basis for Congress to extinguish the two tribes' claims to the Charlotte Beach lands. In consideration for the extinguishments of the tribes' claims, Section 2 of H.R. 2176 would require the Secretary to take into trust for the Bay Mills Indian Community alternative land located in Port Huron, Michigan. Section 1(b) of H.R. 4115 would require the Secretary to take into trust for the Sault Ste. Marie Tribe two parcels of land, one located in Oswego County, subject to the approval of the Village of Vanderbilt and the Little Traverse Bay Bands of Odawa Indians, and the other one located in the City of Romulus, Michigan, subject to the approval of the City.

Problematic Provisions

Both bills would establish a 30 day requirement for the Secretary to take land into trust for the Tribe once the Secretary receives a title insurance policy for the alternative land that indicates it is not subject to any mortgage, lien, deed of trust, option to purchase, or other security interest. The mandatory nature of the land acquisition provisions would require that alternative lands be taken into trust even if the Department determines that potential liabilities exist on these lands. The legislation precludes the Department from evaluating the subject property to determine whether hazardous materials are present. The Department asks that Congress consider the cost to and potential liability of the United States Government with respect to legislative transfers of land into trust, both in this particular instance and all future mandatory trust transactions. We recommend any acquisition in trust be conditioned upon the lands meeting applicable environmental standards. The mandatory nature of the land acquisition would also preclude consultation with affected tribal, State, and local governments that takes place under our regulations.

In addition, section 2710(d) of the IGRA requires that a tribe and State enter into a compact approved by the Secretary and that notice of such approval be published in the Federal Register before Class III gaming may occur.

The settlement agreements include many provisions commonly found in a tribal-state compact under the Indian Gaming Regulatory Act (IGRA):

(1) the Governor's concurrence in the trust acquisition of the alternative lands for gaming purposes;
(2) Tribal payments to the State of Michigan in an amount equal to 8 percent of the net win derived from all Class III electronic games of chance in consideration for limited geographical exclusivity, and payments in the aggregate amount equal to 2 percent of the net win from all Class III electronic games of chance to local units of state governments;
(3) limitation of the Tribes' Class III gaming operations in Michigan;
(4) the Governor's forbearance from exercising the State's unilateral right to renegotiate the Compact pursuant to Section 12(c) of the Compact; and
(5) a statement that Section 9 of the compact is not implicated by provision of the alternative land to the Tribe, and the Governor's waiver of this provision to the extent it is determined to be implicated.

However, these bills appear to circumvent the tribal-state compact approval process by bypassing the approval of the Michigan State legislature. The Department respects tribal and state rights and supports the tribal-state compact negotiation and approval process. Therefore, we believe that these provisions would best appear in a compact.

Finally, we are concerned with the lack of consultation with other Michigan tribes that may be impacted by the terms of these settlements since the legislation would waive Section 9 of the Michigan compacts to the extent it is implicated by the settlements.

This concludes my remarks. I will be happy to answer any questions the Committee may have. Thank you.

Mr. KILDEE. [Presiding.] Thank you very much, Mr. Secretary. We appreciate your presence here today, and we appreciate the role you will play in the welfare of the Native Americans. I have served in Congress for 32 years and have dealt with many Assistant Secretary in charge of the BIA and I appreciate the enormity of your job and the responsibility of your job. I appreciate your presence here today.

Mr. ARTMAN. Thank you, sir.

Mr. KILDEE. Please explain what is the Department's position regarding land acquired by a tribe located away from the reservation through congressional settlement, whether that view is different when a tribe seeks to acquire land off the reservation through the administrative process?

Mr. ARTMAN. Well, in this particular situation acquiring land and settlement of a land claim, the Department supports settlement of land claims, and sometimes that may take place off reservation.

As I mentioned in the testimony, we would like to be able to at least examine the land form as the legislation makes clear title opinion, make sure that there are no liens on it, certainly, but also go through the additional 151 regulation steps including reviewing it for environmental compliance, seeking consultation with neighboring tribes, local governments, state governments, et cetera.

Mr. KILDEE. Thank you. While you have expertise and we call upon you, as we have called upon you today, to share that expertise with this committee, which indeed has its own expertise, under the Indian Non Intercourse Act only Congress, though, can really extinguish a land claim settlement. Land cannot be sold or in any way taken away from the Indians unless through action of the Congress. Am I not correct on that?

Mr. ARTMAN. We agree with you, sir. Yes, that is correct.

Mr. KILDEE. OK. So that is why people wonder why we are gathering here and I have reiterated this. We are the only body, and this law dates back to in the 1780s I believe sometime, the Indian Non Intercourse Act, because there was so much sales taking place.

I can recall, my dad can recall in Michigan where the one tribe near where he lived, that they put the land on the tax rolls unbeknownst to the tribe, and then a year later when the taxes weren't paid they came in and took the land away from the Indians and to make sure they didn't return burned the village down.

My dad can remember that happening. This is the reason we have this real tight control over any land settlement and any selling or exchange of Indian property. So your expertise is extremely important in guiding us, but ultimately, it is only our action that can really bring this about. That is true, is it not?

Mr. ARTMAN. That is correct, Congressman Kildee. We certainly support and understand the Congress' plenary power in area.

Mr. KILDEE. Well, OK. Since IGRA does not define settlement of a land claim, does the Department have a position as to what factors should guide our decision when considering settlement legislation?

Mr. ARTMAN. Well, first, we would like to have the opportunity to examine it not just for liens and title impositions, but also for environmental compliance, compliance with the National Environmental Policy Act. Also, we would like to have the opportunity to make sure that neighboring tribes and localities have some consultation on that, though Congress' plenary power certainly seems to override that.

With regards to this particular situation where there may be gaming involved we would also like to have the ability to adhere to IGRA and have the ability to have the Department of the Interior review the compact provisions. Now, within the settlement agreement and within this settlement agreement there are provisions that seem like compact type provisions.

If this legislation were passed, and gaming did occur on those lands and those provisions were used as part of the Tribal State Gaming Compact we would be in a unique position of asking what do we do with that? Certainly, Congress has acted upon it. Congress has affirmed or supported the settlement agreement and all of its provisions.

Does this law then take the place of the Indian Gaming Regulatory Act? How do we review this for revenue sharing? Is it a taxation? Is the exclusivity of the tribe somehow impacted combined with this revenue sharing? Within the State of Michigan specifically, how does this impact Section 9, if at all, of the existing gaming compacts?

Mr. KILDEE. I helped write IGRA back in the 1980s. We spent months. I don't think we ever have amended IGRA. We are kind of afraid to bring it out on the House Floor as to what might happen if we have an open rule. IGRA was not probably a perfect law, I say sometimes only a perfect law was written on Mt. Sinai not on Capitol Hill, but it is a pretty good law. It is a pretty good law. IGRA is a good law.

We do know, looking at IGRA and looking at the Indian Non Intercourse Act, looking at both of them at the same time, that the

Charlotte Beach land has a cloud over the title. So we have some responsibility to those settlers there who came into what was given to the Indians and was kept by the Indians really in a sense because all of Michigan at one time was owned by the Indians.

So we have to consider their clouded title. Then you talk about environmental standards, too, for where they may get land in exchange. I think probably the City of Romulus or the City of Flint, because there is two choices under the one bill, either Romulus or Flint, and the other bill only the one choice, Port Huron, that they certainly would want to have their own environmental standards.

That does not preclude us from consulting with you and have you give us your advice on that. Ultimately, we would make that decision, would we not?

Mr. ARTMAN. With regards to settling the land claims, yes. As I mentioned before, Congress has plenary power of this, but we would like to have the opportunity to limit the potential liability that the United States may incur by ensuring that the land that we accept into trust holdings for the benefit of the tribe does not have any environmental implications on it.

Mr. KILDEE. Right. We do have good dialogue between us, sometimes formal, sometimes informal, but we will certainly continue to have that.

Mr. Heller.

Mr. HELLER. Thank you, Mr. Chairman. Mr. Artman, thank you for being here today. I referred to that gaming provision in both of these bills. Can you in layman terms explain to us what this provision of these sections do in these bills?

Mr. ARTMAN. Well, the bill affirms the Settlement Act and states that the Settlement Act would be enacted, one that was agreed to by the tribes and the State of Michigan, two separate settlement acts. Inside that Settlement Act there are provisions that you might find within a compact: revenue sharing provisions, provisions relating to exclusivity for gaming, areas on where gaming may potentially take place.

When we look at compacts and we review compacts we look at just those very clauses: revenue sharing, exclusivity, how those two interact with one another. We also look at the broader picture of the state and the agreements that have been forged with the other tribes between the state and the tribes.

In this case, as I mentioned, Section 9 of all the compacts mandates a consultation and potential agreement between the tribes, if there will be gaming, I believe under a two-part determination. By Congress affirming that settlement agreement through this legislation it in many ways potentially circumvents our process.

Now, the legislation does say or I believe the Settlement Act says that a tribal state compact will be entered into in accordance with IGRA. So I will to matters in this case that the tribe and the state would negotiate a contract that would be agreed to or affirmed by the Michigan State Legislature.

It would then be sent by the Michigan Secretary of State to the Department of Interior for review and we would review it. In many respects, that is where the problem may occur, right there. What do we do? We have processes that we use, we have standards that

we use when reviewing compacts that look at just the areas that I mentioned before.

If that subsequent compact violates those areas, what do we do next? Do we say no, that this compact is rejected? If so, how do these two settlement bills then interact with Indian Gaming Regulatory Act? Now, the Indian Gaming Regulatory Act certainly is a broader bill, earlier in time. These are more specific and later in time.

So by certainly looking at how one would use the canons of law, one might say that these would rule. Then, does this set, I know it has been said before, that the bills don't create a precedent, but are we creating some kind of a pathway, roadway, that others may use to also circumvent IGRA?

Mr. HELLER. Do you know why these tribes have chosen to come directly to Congress instead of through the BIA and IGRA process?

Mr. ARTMAN. I think Congressman Kildee certainly stated it best, that this is where land claims are settled, this is where it begins. As to why these provisions may be in the Settlement Act and the subsequent which is supported by this legislation, I am not sure.

Mr. HELLER. OK. I think it was, what, January 4 other members mentioned you rejected the Hannahville Tribe's application to take land into trust in Romulus, Michigan, and one of the key considerations I believe was distance.

I just wanted to know if you agree that the untenable commuting distance of some of the other concerns that you noted with regards to that particular tribe, the Hannahville Tribe, seems to apply equally with these tribes', Bay Mills and Sault Ste. Marie, proposals?

Mr. ARTMAN. You are correct. On January 4 we did send a letter with a negative conclusion to Hannahville that we would not take that land into trust. As part of that letter, as the substantiation for that conclusion, there were a number of factors that we looked at, one of which was looking at 151.11[b] which mandated that we give greater scrutiny to land the further it is away from the reservation than the applicant land.

We looked at a number of issues there, not the least of which was the commutability. If the purpose of the IRA was to create an area in which sovereignty could be exercised, jurisdiction could be exercised, and tribal members could come back to and live and work, if that was the purpose of the IRA, and from that the 151 regulations fall out from 465, that is why we are taking land into trust, we certainly did take a look at those issues.

How would this impact the people on the reservation? Now, it is difficult to say here without seeing a formal 151 application what our conclusion would be in Bay Mills or Sault Ste. Marie. We would want to look at those applications in full before we would come to any conclusion.

Mr. HELLER. I know my time is running out, Mr. Chairman. Do you think that these two tribes, these two proposals here that we have in front of us today, would past mustard with the Department's land and trust review process?

Mr. ARTMAN. Congressman Heller, it is difficult to say right now without seeing those applications in front of us. There are many

factors that we look at. Everything from consultation with the local communities, the state, the National Environmental Policy Act mandates, as well as information that the tribes provide to us as well.

We can't make that conclusion. I can't make that determination sitting here.

Mr. HELLER. Thank you. Thank you, Mr. Chairman.

Mr. ARTMAN. Thank you, Congressman.

Mr. KILDEE. The gentlelady from the Virgin Islands, Ms. Christensen.

Ms. CHRISTENSEN. Thank you. I don't know if you answered it in the last few minutes as I was going through some of my notes, but if I understand that at least one of the lands in the settlement in question is 350 miles away from the reservation. Would that meet this new policy? Would that be outside of your policy?

Mr. ARTMAN. Well, there is no strict mileage limitation. Again, we look at a number of things.

Ms. CHRISTENSEN. Commutable distance.

Mr. ARTMAN. The commutable distance. Even when looking at 151.11[b], commutability is just one of the factors that we look at. So as I mentioned to Congressman Heller, this is something that without looking at the full application I can't determine here, and I don't even want to risk making the hypothetical conclusion or making a conclusion based on hypothetical facts.

For the real situation for Bay Mills and Sault Ste. Marie, we would need to see their complete application.

Ms. CHRISTENSEN. OK. Just for the record, you don't dispute the fact that a settlement is necessary in the case of Charlotte Beach and the two tribes?

Mr. ARTMAN. That is correct, ma'am.

Ms. CHRISTENSEN. OK. Have you made a determination in whole or in part on these two bills and their compliance or noncompliance with IGRA in any areas?

Mr. ARTMAN. No, ma'am, we haven't. Without seeing the compact formally presented to us, and as I said before, compacts are usually much longer than the two pages worth of provisions that were listed in the Settlement Act, we would need to see, as with the 151 application, the full compact before making any conclusions.

Ms. CHRISTENSEN. I will withhold questions for right now.

Mr. ARTMAN. Thank you, ma'am.

Ms. CHRISTENSEN. If I could just reserve my time for a minute. If I could reserve my time I would appreciate it.

Mr. KILDEE. Yes. Your time will be reserved. The gentlelady from California, Ms. Napolitano.

Ms. NAPOLITANO. Thank you, Mr. Chair. Mr. Artman, in your testimony you mentioned concerns about the lack of consultation with the Michigan tribes that may be impacted by the terms of the settlements. Is the consultation with the tribes generally required for all land settlements, and if it isn't, why not?

Mr. ARTMAN. No, ma'am, it is not required for all land settlements. It is not the land settlement portion that concerns us. What concerns us is Section 9 of the Michigan compacts.

Ms. NAPOLITANO. Would you explain Section 9? I am sorry.

Mr. ARTMAN. I am just going to refer to it here just so I can get the verbiage correct. Section 9 of the Michigan Tribal State Compact requires that no application for land to be taken into trust for a two-part determination shall be submitted to the Secretary unless there is a written agreement between the submitting tribe and the other Federally recognized tribes in the state that provides for revenue sharing with those tribes.

This may or may not be a two-part determination. For all intent and purposes, it may eventually be viewed by us as settlement of land claim, which is one of the exceptions that is found in the Indian Gaming Regulatory Act to the post-1988 land, the mandate that any post-1988 land go through is prohibited from gaming unless it falls into an exception or a two-part determination.

This may not be viewed as a two-part determination, but, again, it depends on a number of factors. One, how the settlement agreement is finally passed. How the Settlement Act is passed in accordance with that or how it is accepted through that legislation. How the compact is presented. If this is a two-part determination, then certainly there must be consultation.

Right now this is an area that may cause a concern for us.

Ms. NAPOLITANO. On that Section 9 of the proposed land settlement agreement requiring that the applications take land in trust for gaming pursuant to Section 20 of IGRA may not be submitted to the Secretary without a written agreement between the tribe and state's other tribes, because this is a land settlement and not an application to place land in trust pursuant to Section 20 is it the administration's position that Section 9 applies and that despite the mandatory nature of this legislation the administration must still ensure that it complies with Section 20 of IGRA?

If so, has the administration performed the detailed analysis arriving to the conclusion, and what is that conclusion if you have?

Mr. ARTMAN. OK. Land cannot be taken into trust based on IGRA. IGRA is focused solely on the gaming aspect that may take place on Indian lands, so the land would be taken into trust in accordance with 151, or through the 151 process, or through a mandatory acquisition by mandate of Congress and signed into law.

Again, just going back to my previous statement, Section 20, I think, specifically refers to the two-part determination portion of Section 20. Again, we would need to see if this would require a two-part determination or if it would fall under the land claims exception.

Ms. NAPOLITANO. Then what kind of research, what kind of information do you have on these two requests that can tell me specifically? Because I am sure my colleagues are better informed than I am in being able to determine why there is opposition to them?

Mr. ARTMAN. Well, I think the opposition, the panels after me are going to explain why they oppose it more strongly. We do not support the legislation currently because we want to have the ability to examine the land as is taken into trusts under the NEPA standards, the 151 standards, and to make sure that if any subsequent submission of a compact adheres to IGRA and all that we have to consider under IGRA.

Ms. NAPOLITANO. Thank you, Mr. Chair. Time has run out.

The CHAIRMAN. Before I go back to Ms. Christensen, under the settlement provision of these bills Section 9 then would not apply?

Mr. ARTMAN. It may not.

The CHAIRMAN. It may not apply?

Mr. ARTMAN. It may or may not, but, again, it depends on what happens here, how the bill is passed, how the compact is presented and how it is categorized. Would it be land in settlement of a land claim or another form?

The CHAIRMAN. If Congress determines that it is a settlement of land claim, which Mr. Stupak fairly clearly presented, if it is indeed a settlement of a land claim, then Section 9 would not apply, though, would it?

Mr. ARTMAN. It would not appear that way.

The CHAIRMAN. OK. Thank you very much. Back to the gentlelady from the Virgin Islands.

Ms. CHRISTENSEN. Thank you. There have been some experts who have said there have been no cases to date where a tribe has been permitted to have taken land into trust for gaming purposes in the situation presented by these two tribes, that is where the tribe already had reservation land elsewhere in the state in question and it in fact was already operating tribal casinos within tribal land.

Do you agree with that, that this would be unprecedented? The statement was made early on by the Chairman that this doesn't really set a precedent. Is that how the Department of Interior sees that?

Mr. ARTMAN. This would be unique. We have worked with settlements of land claims before, but never have we worked with settlements of land claims that also had a potential gaming component with it, a potential gaming component that is already listed out in the settlement agreement.

Now, there have been instances where there have been land claims and later gaming has taken place on it, but they were two distinct events.

Ms. CHRISTENSEN. Right. That is why I was wondering why you thought this was a two-part process because to me, as I read it, gaming is already included in the settlement and the claim is made under IGRA.

Mr. ARTMAN. And it may very well not fall under that. Again, it depends upon how the land is categorized subsequent to passage of this legislation and how it is presented to us. In terms of precedent setting, and I know that the bill itself says that it will not create a precedent, but it may provide a road map for others to follow at a later time.

Ms. CHRISTENSEN. Do you think it could result in lawsuits by other tribes claiming similar——

Mr. ARTMAN. We have a room full of lawyers here. I don't think I need to give them any ideas.

Ms. CHRISTENSEN. I don't have any further questions, Mr. Chairman.

Mr. KILDEE. Chair will yield to the Chairman.

The CHAIRMAN. To the Chairman.

Mr. KILDEE. I am very sorry.

Ms. KILPATRICK OF MICHIGAN. May I?

Mr. KILDEE. Absolutely. Gentlelady from Detroit.

Ms. KILPATRICK OF MICHIGAN. Thank you. Thank you very much for yielding, and thank you for the opportunity to even ask a question in this Resource Committee. Thank you very much. I have your letter of January 4, 2008. We have gone over it quite a bit. It was quite lengthy and quite specific in various things that you stated.

One thing that really talks glaring to me, and I am going to quote, "In this case, the remote location of the proposed gaming facility may encourage reservation residents to leave the reservation for an extended period of time to take advantage of job opportunities created by the tribal gaming facility."

First of all, how did you know this was a gaming facility because it was stated earlier that this is not a gaming bill? Don't answer that right this second. "The potential departure of a significant number of reservation residents and their families could have serious affects and far reaching implications for the remaining tribal community and its continuity as a community."

You started off with your testimony today saying that the reason why you did not support this application, it was incomplete and as well as it needed to be decided in Michigan, which is how I took that. Maybe you are going to say something different. I would like you to speak to that.

Mr. ARTMAN. Sure.

Ms. KILPATRICK OF MICHIGAN. The continuity, the movement of the serious distance between it, and you all said, I think Congresswoman Christensen used the word that you all used as it relates to distance, there is no mileage. There are two words that talk about—somebody else has to help me here.

Mr. KILDEE. Commutability.

Ms. KILPATRICK OF MICHIGAN. Yes, that is it. I would like for the record as we move on application incomplete, number one, needs to be settled in Michigan, there is a process for settling this and moreover, the continuity and perhaps irreparable harm to the Native American community. All of those were some of the things that you discussed in your letter.

Can you for the record, as we have been here a while and I know you have looked at this, again, why did you reject the application?

Mr. ARTMAN. Well, I believe the application that you are referring to is the Hannahville application. In that case, Hannahville did give us a request to take land into trust for the stated purpose of gaming which is distinguishable from this particular situation where we don't have an application to take land into trust because it is before Congress for the settlement of a land claim.

One of the things that we do look at, for example, in the Hannahville case, is we go back to 25 U.S.C. 465, the IRA. The purpose of the Indian Reorganization Act was to rebuild the tribal community after it had been torn down through allotment and termination.

The words in the bill and throughout the statements that supported the legislation, it speaks of building up tribal jurisdiction, creating a land where the tribes can be sovereign, allowing the community to flourish.

One of the tests that we have to look at when looking at it from the 151, the regulations that are subsequent to 25 U.S.C. 465, what we look at when we are looking at 151 is that sole mandate as trustee delegate taking that land into trust to build it up for the community.

Now, there are many reasons why you may want to take land into trust off reservation near or far away, and they may be very good and they may be something that we support, but first and foremost, we look at those issues that were put upon us by 25 U.S.C. 465.

In that particular case, and Hannahville I believe was 400, 450 miles away from the reservation, there were a number of issues that we looked at and came to the conclusion that it will be very difficult to substantiate that you are going to be able to allow the community as a group, as a whole, to flourish, that if you are looking at this land to benefit the tribe in that way that tribal members would actually have to leave the reservation and in many respects undo what we were trying to do under 25 U.S.C. 465 and the 151 regulations.

So that was the approach that we took there. This is in many ways a different situation because of the fact that it is the settlement of a land claim.

Ms. KILPATRICK OF MICHIGAN. Settlement of the land claim in one regard, and I guess that is debatable far as I am concerned because I think it is not. I think that the whole premise is not, and it is end around to do something else and using that as what it might be. I am not on this committee, so I can't argue as well as some of my colleagues will.

In fact, you stated in the Hannahville case that you just described the distance, the destroying or certainly impacting the continuity of the community was a disadvantage to the Native American tribe.

Mr. ARTMAN. Under that potential application? That is correct.

Ms. KILPATRICK OF MICHIGAN. Thank you. And if it were not land swamp, and swamp, my word not yours, the same would apply. Thank you.

Mr. ARTMAN. Thank you, ma'am.

The CHAIRMAN. Mr. Secretary, we appreciate the Department's desire to review these compacts, but isn't it a fact that IGRA allows these compacts to go into affect without the Department's review, for example, like after 45 days, and isn't there precedent for that having occurred such as in the California compact?

Mr. ARTMAN. Actually, it has occurred more than just the California compacts. There are times when compacts do go into effect. IGRA states that if a compact is not reviewed within 45 days of being submitted to the Department that it will be deemed approved, and it will go into effect and be published into the Federal Register as though it had been approved.

Nevertheless, we still like to have the opportunity to review it for sections that may be contrary to IGRA and how we view it.

The CHAIRMAN. But you have allowed compacts to go into effect without your review?

Mr. ARTMAN. That is correct, under the 45 day rule.

The CHAIRMAN. Then the bottom line is this Land Settlement Act?

Mr. ARTMAN. That is correct.

The CHAIRMAN. Thank you, Mr. Chairman.

Mr. KILDEE. One more question. How would the Department apply 25 C.F.R. Part 151 to the Bay Mills and Sault Ste. Marie Tribes if they were to seek additional lands contiguous to the land acquired through this congressional settlement?

Mr. ARTMAN. Well, I don't know, sir.

Mr. KILDEE. I appreciate your honest answer.

Mr. ARTMAN. I would have to look at the application. There are a lot of factors that go into it. Are these reservations, how contiguous are they, what have you. As I said, as with the other questions that asked us to make a conclusion based on a small set of facts, we really need to see the full application before making a determination.

Mr. KILDEE. Is there also some need within the Department to have more specific ways to make that determination?

Mr. ARTMAN. Well, we do have the 151 process, and it is well laid out in the regulations, and how we have done business and our checklist. Tribes that make application have access to that and certainly know how to do it. I know that having worked with Sault Ste. Marie on other matters other than this one that tribe, for one, certainly knows how to put land into a trust, as well as Bay Mills does, too.

Mr. KILDEE. Thank you. Unless others have questions, we appreciate very much your testimony here today and we appreciate your good work over in the Department.

Mr. ARTMAN. Thank you, Mr. Chairman. Thank you, Committee.

Mr. KILDEE. At this point I will ask the next panel to come to the table. The Honorable Jeffrey D. Parker, President of Executive Council, Bay Mills Indian Community, Brimley, Michigan, which reservation I have had the pleasure of visiting, The Honorable Aaron Payment, Chairman, Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, Michigan, which I visited probably when I was about 20 years old, The Honorable Alan R. Lambert, Mayor of the City of Romulus, Michigan, and Mr. Karl Tomion, City Manager, the City of Port Huron, Michigan. I will yield the gavel back now to the elected chair, and we will call upon Mr. Parker.

STATEMENT OF THE HONORABLE JEFFREY D. PARKER, PRESIDENT OF EXECUTIVE COUNCIL, BAY MILLS INDIAN COMMUNITY, BRIMLEY, MICHIGAN;

Mr. PARKER. Thank you, Mr. Chair. I bring greetings from Brian Newlan. Sure you remember him.

Mr. KILDEE. Well, give Brian my best. He is out of law school now, right?

Mr. PARKER. And he is working. Gainfully employed.

Mr. KILDEE. Very good. That is great. Very good.

Mr. PARKER. Good afternoon, Mr. Chairman. My name is Jeff Parker, I am the elected President of the Bay Mills Indian Community, a position I have held since 1989 more or less, all but for two years. Before I get into my testimony I did want to say one thing.

I am a child of the cold war, so to speak. My mom was born, and raised and died on the Bay Mills Indian Community Reservation. My father, however, was born in Smithville, West Virginia, so there is a bit of a connection, and just wanted to say hi from him.

I have heard a number of things today and I have some concerns about how things were presented as far as the land claim that Bay Mills has. This claim goes back to the 1870s. It is a claim against the then Governor of the State of Michigan, it is a claim for property that my descendants used for sustenance and it is a claim that we have been trying to get resolved for over 100 years.

In my written testimony you can see the timeline, how we have gone repeatedly to the Federal government seeking redress for the lands that we lost. That hasn't happened. In fact, some of the arguments wold be gone about Indian gaming and exceptions to IGRA if the Federal government had resolved this land claim prior to 1988, but it didn't.

I am glad that Congressman Kildee brought up about the Trade and Intercourse Act because that really is the foundation upon which this claim is made. Tribes themselves cannot dispose of property without an act of Congress. We need an act of Congress. We have a settlement. In the past we were trying to resolve this without the Governor's input at all.

Governor Engler took a look at what was going on, took a look at the struggles that the Bay Mills Indian Community made to get this addressed in an equitable manner because he was also concerned about the citizens who now call the Charlotte Beach area their home and not having them be displaced. He sat down with the tribe and said listen, I know that this type of activity happened four times in the past with three other tribes and yourself.

In fact, today there is still a state reservation in Michigan. I am willing to sit down and work with you, but if I am going to sit down with you I really want to designate the area where you are going to have alternative lands. Was it a choice of the tribe? No. It was a choice of the Governor who the claim was against.

He picked the City of Port Huron because it was one of the only border crossings in Michigan at this time that does not have a casino on the opposite side, on the Canadian side. He picked it because the citizens of Port Huron support this, as do the elected leaders, as we heard earlier, as does Candice Miller and Bart Stupak, two very honorable congresspeople that I have had the pleasure of working with, and now are U.S. Senators.

This is something that has full support of everyone who has been involved with it. Really what we are looking for from this community is a way to put the past behind us and be able to go forward. I ask for your support. I would be happy to answer any questions you may have.

[The prepared statement of Mr. Parker follows:]

Statement of Jeffrey D. Parker

Mister Chairman, and members of the Committee, I am pleased to be invited to present testimony on behalf of the Bay Mills Indian Community on H.R. 2176. I speak here today in my official capacity as President of the Executive Council, which is the elected government of our Tribe. The legislation before you is extremely important to my people; its importance will be better understood by my description of the history of the Tribe and the origin of this controversy.

The Bay Mills Indian Community is comprised of the bands of Sault Ste. Marie area Chippewa who signed a series of treaties with the United States beginning in 1795. My Tribe's modern-day Reservation is located at the juncture of the St. Mary's River and Lake Superior, in the Iroquois Point area of Michigan's Upper Peninsula, and on Sugar Island, which is just east of Sault Ste. Marie, Michigan, in the St. Mary's River Channel. My Tribe is one of four in Michigan which has maintained continuous government-to-government relations with the United States since treaty times. We adopted a Constitution in 1936 under the Indian Reorganization Act, and codified as our form of government the traditional Chippewa public forum, in which all adult members comprise the General Tribal Council. I represent a direct democracy, which votes every two years to select officers, known as the Executive Council. Our total enrollment is approximately 1,750 members. It is on their behalf that I speak today.

I am very proud to testify in support of this legislation, as it represents the final step in obtaining redress of a great wrong done to our people over 100 years ago, a wrong that has imposed continuing consequences to the present day. The Bay Mills Indian Community is deeply grateful to Congressman Bart Stupak for sponsoring H.R. 2176, and to Congresswoman Candice Miller and Congressman Patrick Kennedy for co-sponsoring it. I also wish to express my thanks to Chairman Rahall and Ranking Member Young for understanding how important this legislation is to my people and for holding this hearing today.

History of Our Land Claim

Dr. Charles Cleland, PhD., a preeminent Great Lakes Indian ethnohistorian, has reviewed the history of the Hay Lake/Charlotte Beach land claim. His report on the claim, directed to the members of the Committee, is attached as Attachment 1. I will attempt to summarize his findings in my testimony.

The Sault Ste. Marie area Chippewa bands, among many other bands throughout the Upper Great Lakes, participated in a series of cession treaty negotiations by which large tracts of land were sold to the federal government. These lands, which later became a large portion of the State of Michigan, were ceded to the United States in 1807, 1819, 1820, and 1836. The terms of the Treaty of 1836 are particularly significant to the story of my people.

The Treaty signed by our ancestors in 1836 promised to set aside certain lands for us in perpetuity. When the 1836 cession Treaty was sent to Congress for ratification, however, the Senate unilaterally inserted a provision which limited protection of the lands reserved under it to a five-year term. As a result, over the course of a relatively short period of time the Chippewa lost hundreds of thousands of acres of land, in direct contravention of the express terms of the Treaty that had been signed by them.

In part to rectify the injustices done by the 1836 Treaty, the United States in 1855 entered into another Treaty with our ancestors by which new lands were to be reserved for our use. Among these lands was property specifically identified by legal description in the 1855 Treaty at Hay Lake (the area in modern times known as Charlotte Beach). My Tribe's ancestors signed the 1855 Treaty with the express understanding that the Hay Lake/Charlotte Beach land would be set aside for our exclusive use, and that it would be protected from alienation and European settler encroachment.

One day after the 1855 Treaty was concluded, however, the United States Land Office allowed that very land at Hay Lake to be sold to non-Indian speculators. Hence, despite the fact that the United States agents induced our ancestors to sign the 1855 Treaty on the understanding that the Hay Lake/Charlotte Beach land would be included within our reserved lands, and despite the fact that the Senate ratified the 1855 Treaty with the legal description of the Hay Lake/Charlotte Beach lands still in place, the Tribe lost that land by virtue of the United States Land Office's actions.

In order to recover the Hay Lake/Charlotte Beach land, which was of central importance to us for historical, food gathering, and cultural reasons, the Bands used their annuity money to buy back what portion of it that they could. Upon advice of the Bureau of Indian Affairs agent at the time, trust title to the Hay Lake/Charlotte Beach land was conveyed from the land speculators to the Governor of the State of Michigan, to protect the land from further alienation and encroachment by the Trade and Intercourse Act's prohibition against the alienation of Indian lands without express Congressional consent.

My ancestors hunted and lived on the Hay Lake/Charlotte Beach property for nearly thirty years undisturbed by the State of Michigan. In the 1880s, however, Chippewa County determined that it would impose taxes on the property. Even though he held trust title, the Governor of the State of Michigan failed to respond

to the tax assessment in any manner whatsoever. Despite repeated requests from our people to the Bureau of Indian Affairs for help, the federal government also took no action. Because neither the federal government nor the State of Michigan acted to protect our lands as was required by the Trade and Intercourse Act, the County moved to foreclose on the property and our ancestors were evicted.

I want to make you aware of what the Bureau of Indian Affairs' own agent wrote in 1880 about the impending sale of our Hay Lake/Charlotte Beach lands:

> At the "Sault", the Old Chief Shaw wa no is in very destitute circumstances, and much agonized as his land which amounts to some 300 acres bought by annuity money and deed in trust to the Governor of this State many years ago, has been sold fortaxes...*The Old man wished me to do something for him or ask the Government to provide the means to cancel this claim for taxes,* He is Old, sick & Blind; and all his people are very poor, simply sustaining life by fishing, picking berries, or an odd days work which chance may throw in their way...

Emphasis added. G. Lee, Michigan Indian Agent, in a letter to the Commissioner of Indian Affairs dated August 1880.

In 1916, we again petitioned the Bureau of Indian Affairs for help when on behalf of the Community tribal member William Johnson wrote to the Bureau begging for assistance in regaining the Hay Lake lands. The Bureau rebuffed his petition.

In 1925, an attorney, John Shine, wrote again on the Tribe's behalf, begging the Bureau for help in recovering the Hay Lake property. The Bureau again rebuffed the Tribe's petition for help.

In the 1970s, the United States' own expert witness (widely considered to be the preeminent historian of Indians in the Great Lakes area) in the U.S. v. Michigan treaty fishing rights litigation highlighted the existence of the Hay Lake/Charlotte Beach claim in her expert report submitted to the Federal District Court for the Western District of Michigan. See Report of Dr. Helen Tanner, dated April 1974, for the United States in U.S. v. Michigan, Civ. Case No. 2:73 CV 26 (W.D. MI).

In the 1980s, the Bay Mills Indian Community repeatedly petitioned the Department of the Interior to include the Hay Lake/Charlotte Beach claim on its list of protected historical Indian claims pursuant to 28 U.S.C. Sec. 2415. Through a Field Office of the Office of the Solicitor, Interior erroneously denied our Tribe's petition for the simple and only reason that the Hay Lake/Charlotte Beach land was held in trust by the State rather than the federal government. (A copy of that determination letter is attached as Attachment 2.) The Field Solicitor's refusal was not legally supportable. Existing federal court opinions made clear that the Indian Trade and Intercourse Act protects Indian lands held by states, and Congress had specifically directed Interior to protect all historical Indian claims except those that "had no legal merit whatsoever." (See section 3(a) of Pub. L. 97-394.) Further, the Field Solicitor's refusal was inconsistent with general Interior policy because in fact Interior had included on the final list of protected historical claims a fair number of state-held lands, including some held for state recognized tribes.

The Tribe was not the only entity seeking resolution of the Hay Lake/Charlotte Beach claim. Property owners in the area were contacting both the Department of the Interior and the local Congressman, seeking help in their efforts to obtain clean title to their land. An example of that effort is correspondence with then-Congressman Bob Davis, attached as Attachment 3.

In the 1990s, we tried to obtain redress in the courts. Our efforts were unsuccessful. Our federal court case was dismissed on a procedural technicality (the court found that the mere possibility that the Sault Tribe might have a claim to the Hay Lake/Charlotte Beach land prevented the case from going forward). We fared no better in the state courts, which were unable to address our equitable claim for land, and had little understanding of the federal Indian legal issues before them. In both forums, our claim was dismissed on procedural grounds, the merits of the Bay Mills claim to the land unaddressed. Additionally, while these cases were pending, the Tribe was informed by the Department of the Interior that no court decision could unilaterally extinguish its claim to the Hay Lake/Charlotte Beach land. Extinguishment of the Tribe's claim required Congress to act, with or without a court order approving a land claim settlement.

In 2002, we entered into direct settlement negotiations with the Governor of the State of Michigan to resolve the claim. To Governor John Engler's credit, he determined that it would work with our Tribe to address this long-standing grievance. Subsequently, we were able to forge a settlement that addresses the needs and concerns of the Bay Mills Indian Community, of the State of Michigan, of the people living within the Charlotte Beach land claim area, and of the people living in Port Huron. That settlement, executed by the Bay Mills Indian Community and the State

in August 2002, and as recently amended by agreement with Governor Jennifer Granholm, is the backbone of the legislation here before you today.

I underscore this history because I want the Congress to understand the long-standing importance that this land has held for my people. I want the Congress to understand that this land claim is not about gaming, not about forum shopping, not about modern-day business deals. This land claim exists because of negligence by Land Office staff, historical inaction by Department of Interior staff, and abandonment of trustee obligations by the Governor. Resolution of this land claim is about finally securing just compensation for the Tribe, finally being able to close this painful chapter of our history, and finally being able to shift our focus to the future. It is about finally achieving justice.

The Settlement

In commencing settlement negotiations with the Governor of Michigan, the Bay Mills Indian Community well understood that no agreement would be possible without compromise. Because achieving closure to this long-standing wrong was very important to our community, we worked hard to reach an accommodation with the Governor by which a resolution to our claim would serve both our goals.

The Tribe's goals were to recover lost lands, and to receive monetary compensation due us for having lost possession of those lands. The Governor's goals were to quiet title to the claim area property without displacement of the people living there, to construct a settlement that would not have an impact on the State's budget, and to ensure that any replacement lands would be located in a community desirous of our presence there.

The Settlement accomplishes both the Tribe's and the Governor's goals in a fair and equitable manner. Indeed, we would like to think that the spirit of mutual respect and cooperation with which these negotiations took place should serve as a model for how such difficult and emotionally charged issues can be resolved. In addition, I note that the general structure of the Bay Mills settlement is consistent with other land claims settlements already enacted by Congress. (See, for example, the Torres-Martinez Desert Cahuilla Indians Claims Settlement ratified in the 106th Congress and codified at 25 U.S.C. sec. 1778, in which that tribe's claim for trespass damages was resolved with replacement lands and a related gaming opportunity.)

Indian Gaming

We understand that there is a reluctance to allow Indian land claim settlements to be used to as vehicles for the expansion of Indian gaming. We share that concern. We think, however, that the United States owes it our people, particularly given the long and unfortunate history of our dealings with the United States, to take a hard look at the merits of this land claim, and to understand the proposed settlement in the context of our land claim rather than through the filter of modern controversies surrounding Indian gaming.

If we had never been kicked out of our Hay Lake/Charlotte Beach property, if either the United States government or the State of Michigan had honored and enforced the Trade and Intercourse Act when Chippewa County sought to (and achieved) our dispossession through tax foreclosure sales, then everyone, everywhere, would understand the Hay Lake/Charlotte Beach property to be "Indian lands" held by the Tribe prior to the enactment of the Indian Gaming Regulatory Act (IGRA). Had our ancestors never been evicted by county tax assessors, we would continue to live there to this day, and we would be entitled, under IGRA, to operate an Indian gaming facility there.

The Governor made clear that he would not agree to my Tribe's recovery of the Hay Lake/Charlotte Beach land because it could result in the eviction of current landowners in the Hay Lake/Charlotte Beach area. The Governor instead offered his support for the concept of finding new lands to replace the Hay Lake/Charlotte Beach property in return for our agreement that our trust title to the Hay Lake/Charlotte Beach property would be extinguished by Congressional action. By agreeing to provide replacement land to the Tribe, the Governor has alleviated the anxiety of persons currently living in the Hay Lake/Charlotte Beach claim area that they might some day be evicted from their homes. By agreeing that such replacement lands should be eligible for gaming, the Governor has agreed that the replacement land should in fact have the same status as the lands we have agreed to give up—that is, the replacement land should be treated as if it, too, had been held by the tribe since the mid-nineteenth century.

The Governor insisted that we locate replacement lands in a community that was desirous of hosting us. We have done that. As you will hear directly from represent-

atives of Port Huron today, that community affirmatively wishes our Tribe to locate its replacement lands there.

I also wish to underscore that the Governor insisted that he would not approve appropriation of money from the State budget to compensate us for the damage done to us by having lost the use and benefit of these lands for more than a century. We have agreed to that; indeed, have agreed that we will try to achieve full compensation based on the money we ourselves make through economic development on the replacement lands. Those funds will generate the income we require in order to provide governmental services and programs to the Tribe's members and their families. Without that income, we would have no choice but to come back both to the State and the Federal Government, and insist that we be compensated for both parties' failure to protect our lands from alienation as required by the Trade and Intercourse Act.

For these reasons, I strongly and respectfully urge you to consider this settlement not through the lens of Indian gaming, but rather in the context of the long and well-documented history of the wrong done to my people, and in the context of the overall wisdom of a settlement crafted to create the greatest good for the most people.

Conclusion

I recognize that there are additional issues which may be of interest or concern to the Committee. I am happy to address any and all issues, and I welcome your questions today. I once again thank you for the opportunity to tell the Bay Mills Indian Community's story, and I respectfully urge you to support the efforts of the Bay Mills Indian Community, the citizens of Charlotte Beach and Port Huron, and the State of Michigan, by providing the necessary Congressional ratification of our settlement without further delay.

Statement of Charles E. Cleland, Distinguished Professor Emeritus of Anthropology, Michigan State University, submitted for the record

Mr. Chairman and Members of the Natural Resources Committee of the U.S. House of Representatives:

My name is Charles E. Cleland and I am a Distinguished Professor Emeritus of Anthropology from Michigan State University (MSU). Since receiving my PhD in Anthropology from the University of Michigan in 1966, I have devoted my career to the study of the history and culture of the native tribes of the Upper Great Lakes region. I have authored several books and many journal articles on these topics and have likewise taught numerous courses related to the anthropology and history of the Great Lakes region. During my career and subsequent to my retirement from MSU in 2000, I have had frequent occasions to offer expert testimony in our federal courts as they were hearing cases involving treaty right issues.

I come before you today at the request of the Bay Mills Indian Community to discuss the historical events which precipitated the Charlotte Beach land claim over 130 years ago and which has been a point of bitter consternation for the Bay Mils Community ever since. My testimony today is also is support of H.R. 2176 which would resolve the long-standing Charlotte Beach land claim to the satisfaction of the Bay Mills Community.

The Charlotte Beach land controversy originated over 135 years ago and has been a bitter point of consternation for the Bay Mills Indian Community ever since. H.R. 2176, which is now before the Natural Resources Committee of the House of Representatives, would resolve the many injustices that have resulted from the botched allotment of these lands under the Treaty of Detroit in July 31, 1855.

Without a doubt the Bay Mills Indian Community has a valid and long standing historical claim to the Charlotte Beach lands which consist of Lots 1, 2, 3, and 4 of Sec. 7, T. 45N., R. 2E., and Lot 1 of Sec. 18, T. 45N., R. 2E., in Chippewa County, Michigan.

Chief Shawan's band, which was without land allotments since the land assigned to them in the Charlotte Beach area had either been previously sold to non-Indians or was underwater, became one of the bands that formed the Bay Mills Indian Community in 1871.

United States Department of the Interior

IN REPLY REFER TO:

OFFICE OF THE SOLICITOR
Office of the Field Solicitor
686 Federal Building, Fort Snelling
Twin Cities, Minnesota 55111

BIA.TC.3776

June 24, 1992

Mr. Earl J. Barlow
Area Director
Bureau of Indian Affairs
Minneapolis Area Office
331 South 2nd Avenue
Minneapolis, Minnesota 55401

Attn: Rights Protection

Re: Rejection of Claim - No. F60-469-0010

Dear Mr. Barlow:

We have at your request again reviewed the above referenced claim and related materials in the file.

It is our opinion that the claim should be rejected for the reasons stated in our previous letters of October 21, 1982, and January 17, 1985. We are closing our file in this matter.

Sincerely,

Jean W. Sutton
For the Field Solicitor

Enclosure

BUREAU OF INDIAN AFFAIRS
RECEIVED
JUN 25 1992
Rights & Protection, M A A

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:

Real Estate
Technical Services
BCCO 2498

BUREAU OF INDIAN AFF.
90 AUG 22 AM 10: 32
MICHIGAN AGENCY

AUG 17 1990

Honorable Robert W. Davis
Member, United States House
of Representatives
144 S. 2nd Street
Alpena, Michigan 49707

Dear Mr. Davis:

Thank you for your letter of July 20 on behalf of Ms. Carla Syrstad of Barbeau, Michigan. Ms. Syrstad would like an updated status on her case which involves clouded title on land within the Charlotte Beach Subdivision in Barbeau, Michigan.

Because this case may involve a claim identified pursuant to the Indian Claims Limitation Act of 1982, we are forwarding your inquiry to our Minneapolis Area Office (Bureau of Indian Affairs, 15 South 5th Street - 10th Floor, Minneapolis, Minnesota 55402) for a direct reply. That office maintains administrative jurisdiction over certain Indian lands in the State of Michigan.

The Minneapolis Area Office will provide you with a direct response within 4 to 6 weeks.

Sincerely,

/s/ MARSHALL M. CUTSFORTH

Deputy to the Assistant Secretary -
Indian Affairs (Trust and Economic
Development)

Copy to your Washington Office

cc: Minneapolis Area Director, Attn: Rights Protection
w/incoming for a direct reply
Superintendent, Michigan Agency

2498-200

ROBERT W. DAVIS
11TH DISTRICT, MICHIGAN

COMMITTEES:
ARMED SERVICES
MERCHANT MARINE AND FISHERIES

Congress of the United States
House of Representatives
Washington, DC 20515

WASHINGTON OFFICE:
2417 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4735
CALL TOLL-FREE IN MICHIGAN:
1-800-482-4883

BUREAU OF INDIAN AFFAIRS
90 AUG 22 AM 10: 32
MICHIGAN AGENCY

July 20, 1990

Office of Indian Affairs
U. S. Department of Interior
Interior Building
C Street between 18th & 19th Streets
Washington, D. C. 20240

Dear Madam or Sir:

Because of my desire to be responsive to all of my constitutents' inquiries, your consideration of the attached is appreciated.

Please investigate the statements made therein and provide a full report on your findings to my Alpena district office to the attention of Jerry Newhouse, returning the correspondence with your reply.

Thank you for your attention.

Sincerely,

Bob Davis

ROBERT W. DAVIS
Member of Congress

Enclosure

BUREAU OF INDIAN AFFAIRS
EXECUTIVE SECRETARIAT
'90 JUL 31 P2:43

DISTRICT OFFICES:

- 2400 U.S. 41 WEST, MARQUETTE, MI 49855, (906) 226-3700
- 111 N. MAIN STREET, CHEBOYGAN, MI 49721, (616) 627-4603
- 118 N. 22ND STREET, ESCANABA, MI 49829, (906) 786-4504
- CITY-COUNTY BUILDING, SAULT STE. MARIE, MI 49783, (906) 635-0405
- 147 W. MAIN STREET, GAYLORD, MI 49735, (517) 732-3161
- 100 PORTAGE, HOUGHTON, MI 49931, (906) 482-2484
- 144 S. 2ND STREET, ALPENA, MI 49707, (517) 356-2025
- 310 W. MITCHELL STREET, PETOSKEY, MI 49770, (616) 347-4950

Congressman Bob Davis
144 S. 2nd. Ave.
Alpena, Michigan 49707
July 16,1990

Several years ago I made inquiries to your office about the legal ownership of the properties in the Charlotte Beach Subdivision in Barbeau, Michigan. The residents had, then, just become aware that we could not get title insurance for resale or financing. We learned that the property was sold just before a Federal Treaty with the Indians went into affect. I am on vacation and don't have my records with me, but , if memory serves me right, the land was then put in trust with the State and was finally sold for non-payment of taxes. The opinion given at the time was that it did not appear to be part of the Treaty and the Federal government would possibly release it and we could then pursue the case on a state level.

Maybe, 4 years ago I was told the person reviewing cases had left that position and no one had replaced him. About 2 years ago my brother Richard Reinhart was trying to buy a summer home and made inquiries with an Indian Affairs office in Washington D.C. and again no progress seemed to be made. Now just this passed spring a Bill Isaacson who now resides in Escanaba and was trying to sell a home here talked to Mr. Davis' representative in Escanaba and came away with the impression some action may be in the works.

So, to finally get to the point, I would like to know the latest status of the case. Is there more that my neighbors and I could do to speed things up?

Although, this is our home of record, my husband is in the Coast Guard and we are living in Wisconsin. I will be in Barbeau until the middle o August. After that time please contact me in Wisconsin. Thank you for your efforts.

Sincerely,

Carla Syrstad
30 BB Charlotte Beach
Barbeau, Michigan 49710
1-906 632-0265

or,

4821 Church Rd.
Platteville, Wisconsin 53818
1-608 568-7670

The CHAIRMAN. [Presiding.] Thank you.
Chairman Payment.

STATEMENT OF THE HONORABLE AARON PAYMENT, CHAIRMAN, SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS, SAULT STE. MARIE, MICHIGAN

Mr. PAYMENT. Chairman Rahall, my name is Aaron Payment. I speak to you today as the elected Chairperson of the Sault Ste. Marie Tribe of Chippewa Indians. We are the largest Federally recognized tribe within Michigan. I would like to thank you for giving me the opportunity to testify on both bills today, and especially on behalf of my people. Let me begin by expressing my tribe's deepest

gratitude to Michigan Representatives John Dingell, Candice Miller, Dale Kildee and Bart Stupak.

I would also like to thank our former Republican Governor, John Engler, and our current Democratic Governor, Jennifer Granholm, for their leadership in trying to settle a century old wrong that was committed on my ancestors. Today, we have heard a lot of testimony, and I am deviating from my presentation because I think gaming unfortunately brings out the most ugliest in politics and the distortion of facts.

Hopefully, your committee will have the opportunity to read through all of the testimony and discern what is fact and what is not fact. As Indian people we are used to being in this position. We didn't come about where we are today by having things handed to us. My tribe had to become Federally recognized in 1972 after 20 years of fighting to try to provide for our people.

The wrong committed on my ancestors was that the land that was withdrawn from the public domain for the benefit of Indians were in fact selected by a non-Indian in contravention of the 1855 Treaty. Make no mistake, this land was illegally taken and only you, only Congress, has the opportunity to resolve that claim.

Governor Granholm, in her November 14 letter, wrote to you and asserted that both the Federal Court and the State Court have addressed this claim, but neither has rejected it. You have heard different testimony today to suggest that this is an illegitimate claim and that somehow this has not been tested, but Governor Granholm, who used to be our Attorney General for the State of Michigan, asserted to you in a letter on November 14 that the claims have not been dismissed.

Two key issues regarding the settlement need to be addressed. First, the 1988 Indian Gaming Regulatory Act includes a land settlement provision. When IGRA was enacted, Congress contemplated that situations may arise where tribes may wish to conduct gaming on lands acquired through land claim settlements.

IGRA specifically allows this to happen. Contrary and notwithstanding to some of the testimony that you heard today to try to discredit this, IGRA specifically allows this to happen. Second, it is important to note that this legislation is not off-reservation gaming. That was used almost like a dirty word today.

IGRA provides for Congress under your plenary power to take new lands into trust to create a new reservation as a remedy for lands that were unjustly taken from Indian people. We are not requesting off-reservation status under a two-part determination. That is why the Under Secretary was here. We are not requesting that.

We are requesting that you settle a land claim on our behalf. I would be remiss if not to emphasize the importance of casino gaming on my tribe and to the State of Michigan. Before gaming, unemployment in my community was about 50 percent. Today, gaming provides good jobs and benefits to thousands of Indians and non-Indians alike all across the State of Michigan.

Gaming provides revenues that empower my tribe to expand services with approximately 56 percent of our revenue coming from our own sources from gaming revenue and only 44 percent of the

revenue for our services coming from Federal entitlement that we, as tribes, prepaid through the treaties and land cessation.

Due to our large membership at 37,000 members we are not a per capita tribe. One hundred percent of our revenues goes toward services like healthcare for our members, services for our elders, college scholarships, an array of social services, to pave our roads, to buy public safety equipment, and to provide recreational opportunities and so much more.

With 64 percent of my members residing outside of our service area and 97 percent living off reservation because we are a reservation poor tribe we need to generate even more revenues to begin to meet the needs of our most basic needs for our members including healthcare, education and elder services for our members regardless of where they live.

There was some talk earlier about why are we picking Romulus? We happen to have 3,300 tribal members who live in the tri-county area of Wayne, Oakland and Macomb County. Certainly we have an interest in that community as much as anybody else has in that community. It is our goal as a tribe to try to provide for our people.

Our opponents contend that a new casino would hurt employment in Detroit. My tribe happens to be the majority owner of one of those casinos. We own the Greektown Casino. We will do nothing to jeopardize our largest asset or take away jobs from Detroit or from ourselves.

You know, it is interesting that when we hear these kind of criticisms because we helped to sponsor Proposal E in order to give Detroit the opportunities that they currently have, and we are one of those casinos that provides those opportunities, we are one of those casinos that employs nearly 3,000 employees in the City of Detroit.

When some politicians who testified in front of you today when Proposal E was going through, they were silent on the issue because they didn't know what their constituents would think. We supported it all along. Our interest is to provide for our people to be justly compensated for land illegally taken that occurred over a century ago and to finally clear the clouded titles for the families who today own homes on the Charlotte Beach lands.

Finally, I am grateful for the strong support we have received. Federal, state and local officials, both Democrat and Republican, support this legislation. Two Michigan Governors on both sides of the aisle have signed agreements to settle this claim once and for all. This is a legislation that is a fair and just settlement to our claim.

On behalf of the members of my tribe, I thank you for the opportunity to testify in front of you today.

[The prepared statement of Mr. Payment follows:]

Statement of Aaron Payment, Chairperson of the Sault Ste. Marie Tribe of Chippewa Indians

Mr. Chairman and members of the Committee, my name is Aaron Payment. I speak to you today as the elected Chairperson of the Sault Ste. Marie Tribe of Chippewa Indians, the largest of Michigan's 12 federally recognized Native American tribes. On behalf of our Tribe's 37,000 members who live across Michigan and the world, I would like to thank you and the entire Committee for your consideration of this matter and for giving me the opportunity to be here to testify in support of H.R. 4115 and H.R. 2176.

Before I begin the formal part of my testimony, I want to express the Sault Tribe's deepest gratitude to Michigan Representatives John Dingell, Bart Stupak and Candice Miller. Their leadership has the potential to settle a more than century-old wrong committed against the ancestors of the Sault Tribe and to create more than 2,700 good jobs and hundreds of millions of dollars in new investments in a region of Michigan where the economy is sputtering and desperate for good news. These Representatives care deeply about Michigan's Native people and are working tirelessly to boost our state's economic fortunes. The Sault Tribe is also grateful to Michigan's former Republican Governor, John M. Engler, for his support and for negotiating the 2002 agreement between the State of Michigan and the Sault Ste. Marie Tribe and to our current Democratic Governor, Jennifer Granholm, who has recognized and affirmed the validity of our land claim, negotiated an addendum to the 2002 Engler agreement and has respectfully urged approval of our settlement by the U.S. Congress.

My testimony centers on four main points:

- First, I will focus on the history of Charlotte Beach and the circumstances that gave rise to our land claim. I will show how two Michigan governors have confirmed that the Charlotte Beach lands were wrongly taken from the Sault Tribe's ancestors.
- Second, I will describe the federal court's conclusion that the Sault Tribe has a valid, un-adjudicated claim to the Charlotte Beach lands that were wrongly taken from the Tribe's ancestors.
- Third, I will describe the resolution of the land claim contained in Governor Engler's 2002 Settlement Agreement with the Tribe and Governor Granholm's 2007addendum.
- Fourth, I will demonstrate that the Charlotte Beach settlement falls within the "settlement of land claim" contemplated by the Indian Gaming Regulatory Act and is in no way an expansion of "off-reservation" gaming. Rather, the 2002 settlement creates new trust lands as compensation for lands that were illegally taken from our ancestors.
- Finally, I hope to help you understand how passage of this legislation confirming the 2002 settlement agreement between the State and the Sault Tribe provides just and fair compensation for the wrong done to the ancestral bands of my people more than 100 years ago and how it will add jobs and revenues to Detroit, Wayne County and the State of Michigan.

The history of the Tribe's land claim in Charlotte Beach begins five centuries ago, when Europeans were first setting foot on the lands of what would become the Upper Peninsula of the Great State of Michigan. The Sault Ste. Marie Tribe of Chippewa Indians, together with the Bay Mills Indian Community, is a modern expression of the Anishinabeg who have lived in the Great Lakes since time immemorial. Back in the early 1600s, many of our Anishinabeg ancestors made their homes near the rapids of the St. Mary's River, which they called Powating (Bawating)—the rapids. This area would later become the City of Sault Ste. Marie and Chippewa County, Michigan. In the mid 1600s, our ancestors greeted the French who traveled from Montreal to the Sault to obtain beaver pelts for the fledgling fur trade. When French sovereignty ended a century later in 1763, the English moved into the area and took over what had become a lucrative fur trade. By 1820, the British had been replaced by Americans, and the Anishinabeg ceded 16 square miles of land along the St. Mary's River to the United States to build Fort Brady. We have a long and proud tradition working closely with the Americans to avoid conflict and accommodate settler's needs.

Two important treaties were signed over the next two decades. The Treaty of 1836—also known as the Treaty of Washington, 7 Stat.491—was supposed to set aside certain lands for our use in perpetuity. The treaty ceded northern lower Michigan and the eastern portion of the Upper Peninsula to the United States. In return, the Sault Ste. Marie Tribe received cash payments and temporary ownership of about 250,000 acres of land contained in disparate, small reservations located throughout the ceded territory. These reservations were only to last five years, unless extended by the President, which never occurred. Because of the temporary nature of the reservations under the 1836 Treaty, the status of the Ottawa and Chippewa after 1841 was tenuous and uncertain. To address their condition, the United States entered into a second treaty with these same tribes in 1855.

The Treaty of 1855—also known as the Treaty of Detroit, 11 Stat.621—is central to our land claim. The treaty was agreed to on July 31, 1855 and ratified by the Senate on April 15, 1856. Under the Treaty, the U.S. government agreed to withdraw large parcels of land from the public domain—meaning those lands were no longer available for purchase from the federal government and were to be reserved for the use of our tribe. All of the lands were located within the territory ceded

under the Treaty of 1836. The Indians—including our ancestors—were allowed to select land allotments from the withdrawn areas for a 10-year period. After 10 years, all unselected lands were to be restored to the public domain. The area in Chippewa County now known as Charlotte Beach was among the lands specified in the treaty for the use of my ancestors and were for withdrawn from public domain under the Treaty of 1855, 11 Stat.621.

In June of 1856, a non-Indian land speculator named Boziel Paul received a patent from the federal government to lands in Charlotte Beach even though those lands had been designated for withdrawal from the public domain for use by my ancestors under the 1855 treaty. [1]

After receiving the patent to the Charlotte Beach lands, Paul visited the property and discovered that Indians—including my ancestors—were already living there.

To avoid conflict, on October 12, 1857, Paul conveyed the lands to then Michigan Governor Kingsley S. Bingham in trust for the original bands of the Sault Ste. Marie Indians. [2] The Governor, who may or may not have been aware of the 1857 conveyance, failed to pay property taxes on the Charlotte Beach lands, which were then sold in 1884 and 1885 at a tax sale to third parties, who were non-Indians, even though the land belonged to the Bay Mills and Sault Tribes ancestors, who were then living on the land. [3]

In sum, the wrong committed on the Sault Tribe's ancestors was that lands that had been designated for withdrawal from public domain for the benefit of the tribal members were, in fact, selected by a non-Indian, who received a patent to these lands, in contravention to the 1855 Treaty of Detroit.

Additionally, after that non-Indian subsequently transferred the land to the governor of Michigan in trust for the benefit of our ancestors, the state of Michigan failed to maintain ownership of the lands for the tribe's benefit and, instead, improperly lost the lands for non-payment of taxes.

Make no mistake; this Land was illegally taken from the Sault Tribe.

As a result of this illegal land taking from the tribes, not only were the tribes denied rights to their ancestral lands that were designated for their benefit, but the current homeowners face clouded title, since both Bay Mills and the Sault Tribe claim the land as their own, as do the homeowners. These 200 homeowners now face uncertain property rights and diminished property values. As Congressmen John Dingell and Bart Stupak and Congresswoman Candice Miller wrote to you and Ranking Member Young: ".,..we can assure you that for the property owners and taxpayers in Charlotte Beach, this "purported" land claim is all too real. Clouding of private property titles as a result of this unresolved claim has resulted in homeowners finding as much as 90% of their property's assessed value has been lost. In turn, this has led to a depreciation of the real estate tax base of Chippewa County, resulting in lost revenue and reduced government services."

It is also important to note that both a federal court and a state court have addressed the land claim. Indeed, the federal court confirmed an important element of the Sault Tribe's claim.

In 1998, the United States District Court for the Western District of Michigan dismissed a quiet title action addressed to the Charlotte Beach claim brought by the Bay Mills Indian Community. The suit was filed against various land owners of the Charlotte Beach tracts and a title company insuring their titles. The District Court ruled that Bay Mills could not prosecute the quiet title action alone because it was not the only tribe that had a claim to the Charlotte Beach properties.

Indeed, the Sault Tribe had the identical claim to the lands. As I noted earlier, both the Bay Mills Indian Community and the Sault Ste. Marie Tribe of Chippewa Indians are modern-day political successors in interest to the Original Bands of Sault Ste. Marie Indians. Thus, the Sault Tribe was held to be an indispensable party to the lawsuit. The court concluded that in the Sault Tribe's absence, the lawsuit could not proceed, and since the Tribe enjoys sovereign immunity, it could not be forced to participate in the litigation without its consent.

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[1] United States Patent (June 16, 1856), recorded in Liber 3 of Deeds on page 147 (Oct. 12, 1857), granting Lot 1, Sec. 18, Township 45N, Range 2E; United States Patent (June 16, 1856), recorded in Liber 3 of Deeds on page 150 (Oct. 12, 1857), granting Lot 1, Sec. 7, Township 45N, Range 2E; United States Patent (June 16, 1856), recorded in Liber 3 of Deeds on page 149 (Oct. 12, 1857), granting Lot Nos. 2, 3 and 4, Sec. 7, Township 45N, Range 2E

[2] Warranty Deed (Oct. 12, 1857), recorded in Liber 3 of Deeds on page 150, conveying Lot Nos. 1, 2, 3 and 4, Sec. 7, Township 45N, Range 2E to Kingsley S. Bingham for consideration of $375.00; Warranty Deed (Oct. 12, 1857), recorded in Liber 3 of Deeds on page 147, conveying Lot No. 1, Sec. 18, Township 45N, Range 2E, to Kingsley S. Bingham for consideration of $375.00

[3] State Tax Land Deed (Sept. 6, 1884), recorded in Liber 11 of Deeds on page 516, conveying Lot Nos. 1, 2, 3 and 4, Sec. 7, Township 45N, Range 2E, for consideration of $35.00.

The District Court's decision was affirmed by the United States Court of Appeals for the Sixth Circuit in a per curium opinion. Bay Mills Indian Cmty. v. W. United Life Assurance Co., 208 F.3d 212 (6th Cir. 2000).

In a letter of November 14, 2007 to Chairman Rahall and Ranking Member Young, Governor Granholm described the legal situation as follows, "The federal courts have held that both the Bay Mills Tribe and the Sault Tribe trace their ancestry to the two Chippewa bands named in the deed to the disputed Charlotte Beach lands and that both Tribes, accordingly, share in any potential claim based on those lands; both tribes are necessary parties in any effort to conclusively resolve those claims." Governor Granholm concluded that "in order to adequately protect the legal interests of the state and its citizens, it is vital for congress to act to approve both of these amended settlement agreements, allowing these claims to be resolved fully and finally."

At about this same time, Bay Mills initiated a lawsuit against the State of Michigan in its Court of Claims, claiming that it was entitled to money damages against the State because of the Governor's failure to keep the Charlotte Beach lands in trust for its benefit, consistent with the Paul deed in the 1880s. In addition, Bay Mills contended that it was entitled to money damages because of the State's action allowing the lands to be forfeited due to the failure to pay taxes on the property.

Although the Bay Mills' lawsuit against the State of Michigan in state court was rejected, it was not because that court concluded that there was no valid land claim. The Michigan Court of Appeals held that the State was not liable to Bay Mills for money damages primarily because the statute of limitations barred the claim. Bay Mills Indian Cmty. v. Michigan, 626 N.W.2d 169, 175-76 (Mich. Ct. App. 2001). To conclude that the State is not liable in money damages to Bay Mills is, of course, far different from concluding that Bay Mills had no valid claim to the Charlotte Beach lands.

This legislation resolves the century old historical land claim by Bay Mills and the Sault Tribe.

In 2002, Governor John Engler reached separate land claim settlements with both tribes. Under the settlements, the tribes agreed to relinquish any and all legal and equitable land claims to the Charlotte Beach lands, and, in return, the Governor agreed to select alternative lands in Michigan for the tribes. As the agreement with the Governor reads, "the Governor, as chief executive officer of the State of Michigan...desires to settle the land claim for the benefit of the State of Michigan and, in particular, the Charlotte Beach landowners..."

In 2007, Governor Jennifer Granholm, amended and endorsed the 2002 agreement stating in her November 14 letter to Chairman Rahall and Ranking Member Young, "I strongly encourage you to support H.R. 4115 provided that it includes the Settlement Agreement as modified by the enclosed addendum."

Two other issues regarding this legislation need to be addressed:

First, it is important to understand that land claims are permissible under the Indian Gaming Regulatory Act(IGRA). In fact, IGRA includes a land settlement provision. When IGRA was enacted in 1988 it was contemplated that situations may arise where tribal governments may wish to conduct gaming on lands acquired through land claim settlements, and IGRA specifically allows this to happen. In effect, under this IGRA exception, new trust lands are established—at times long distances from the tribe's original reservation.

Soon after IGRA was enacted, Congress passed the Seneca Nation Settlement Act of 1990, 25 U.S.C. §§ 1774-1774h The United States wanted to make up for the past inequities associated with rental payments to the Seneca Nation Indians, located in western New York, under 99-year leases authorized by Congress in 1875. The leases were substantially under market value. Under the Seneca Nation Settlement Act (SNSA), the Seneca Nation Indians received money from the United States and the State of New York. Those funds could not be obtained by the Seneca Nation Indians until the tribe entered into new leases and released all claims under the old leases. Some of those funds could be used to purchase land for economic development purposes, including gaming. In 2002, the Seneca Nation Indians and the State of New York entered into a tribal-state class III gaming compact under IGRA, which authorized the Seneca to establish three gaming facilities: one on its reservation and one each in the cities of Buffalo and Niagara Falls. The money used for the purchase of gaming sites in these three areas was from the SNSA, the land claims settlement act.

In addition, we are aware of at least three other Indian casinos operating on lands very distant from those tribes' reservations. The Forest County Potawatomi Community of Wisconsin owns and operates a casino in downtown Milwaukee, which is roughly 200 miles south of the Tribe's headquarters and reservation in Crandon. The Kalispell Tribe in Washington State operates a casino in the City of Airway

Heights near Spokane, about 75 miles south of its main reservation. The third is the Keweenaw Bay Indian Community in Michigan. This Tribe operates a casino near Marquette, roughly 80 miles west of its reservation.

Although these casinos are operated on lands made eligible for gaming under a different exception to IGRA than the one at issue here, they nonetheless demonstrate that under some circumstances gaming may occur on parcels of land very distant from the reservation of the affected tribe. More importantly, the Department of the Interior has made it quite clear that its difficulty with allowing gaming to occur on parcels far from the affected tribe's reservation is limited to applications for exception to IGRA's prohibition against gaming on off-reservation parcels under the so-called two-part determination exception in IGRA, 25 U.S.C. § 2719(b)(1)(A). Here, the Sault Tribe is not seeking a two-part determination for the new alternative lands. Rather, it seeks to game on the alternative lands agreed to in the 2002 agreement because that land would be taken into trust in settlement of a land claim, a different exception to IGRA's prohibition against gaming on after-acquired lands. See 25 U.S.C. § 2719(b)(1)(B)(i).

Secondly, there is a misconception that this legislation will lead to "off-reservation gaming." In fact, the IGRA exception embedded in this legislation takes new lands into trust as the remedy for the lands that were unfairly taken from Sault Tribe. Indeed, the legislation will lead to new trust lands and not "off-reservation gaming."

Additionally, a constitutional amendment approved in 2004 by Michigan voters to limit gaming states that the requirement "does not apply in Indian tribal gaming." In fact, the amendment also requires new casinos to win the approval of local voters before they can open. All the localities involved have approved ballot initiatives supporting projects in their communities

Before I conclude, I would be remiss not to emphasize the importance of casino gaming to my Tribe and to the State of Michigan. Before gaming, unemployment among my tribal members exceeded 50 percent. Today, gaming provides good jobs to thousands of Native Americans and non-Indians across our state.

Since our tribe is so large, we do not have "per capita" payments to our tribal members. All of our revenue goes to services for our 33,000 members. With federal entitlements, we receive just 45 percent of the established need for our members who reside in our Upper Peninsula service area. We pick up the other 55 percent out of gaming revenue. 64 percent of our members reside outside of our service area, including approximately 2000 in the tri-county Detroit area, we do not receive any federal entitlements for these members. Our business ventures provide revenues that have enabled the Sault Tribe to provide health care to our members—to open an award-winning school for tribal children—to provide the services that our tribal elders deserve and long did without—to send tribal members to college—to provide a myriad of human service programs—to pave roads, buy public safety equipment, provide recreational opportunities, and so much more. Because of gaming, thousands of my tribal members have escaped state and federal welfare programs for the hope and opportunities that only gainful, meaningful employment can provide. A new property on the alternative lands that Governor Engler selected, Governor Granholm endorsed and local voters approved would boost benefits and services to our members.

It would also benefit the City of Detroit, where unemployment is in double digits and Wayne County, where unemployment is nearly 9 percent. Detroit currently has three casinos and the Sault Tribe is the majority owner of one of the properties, Greektown Casino. We are currently expanding that property and will do nothing to jeopardize that investment or take away jobs from this casino or Detroit as a whole. Indeed, the Sault Tribe wants the Detroit gaming market and the City of Detroit to succeed and to thrive.

Their will be a net gain of jobs for the region, increased tourism dollars and an increase in revenues to the State of Michigan, Wayne County and the City of Detroit. A new project will bring at least 2700 new jobs to the region. Detroit's gaming market—with more than 4 million people and thousands of visitors daily—can easily support additional properties. In fact, additional properties will help Detroit become even more of a tourism destination. I want to be clear, the Sault Tribe is committed to the City of Detroit.

Finally, I am grateful for the strong support we have received from so many people.

Federal, state and local officials—Democrats and Republicans—support the agreement with Bay Mills and the Sault Tribe as a fair way to address the Charlotte Beach land claim within the confines and spirit of the law. As I have noted, two Michigan governors have negotiated and supported the agreement—John Engler, a Republican and Jennifer Granholm a Democrat. Michigan Congressmen John Dingell and Bart Stupak and Congresswoman Candice Miller have all worked tire-

lessly for justice for our tribe, to assist the economy of the State of Michigan and help Charlotte Beach homeowners. Local voters in three Michigan communities—Romulus, Port Huron and Flint—have approved ballot referenda in favor of the proposed facilities.

Quite frankly, the loudest arguments against H.R. 4115 and H.R. 2176 come from Las Vegas casino interests and gaming tribes that do not want competition to their own businesses. Our interest is that we are justly compensated for the illegal land taking from our tribe and that the titles are cleared for the many families who today own homes on Charlotte Beach lands.

This land was taken illegally from my ancestors. We have waited for over a century for a resolution. A fair and equitable settlement to our Charlotte Beach land claim is found in this legislation. On behalf of all members of the Sault Tribe, I respectfully urge the Committee and all Members of Congress to approve H.R. 4115 and H.R. 2176.

The CHAIRMAN. Thank you, Mr. Chairman.

Mayor Lambert.

STATEMENT OF THE HONORABLE ALAN R. LAMBERT, MAYOR, CITY OF ROMULUS, MICHIGAN

Mr. LAMBERT. Thank you, Mr. Chairman, Committee members. Actually, I had a whole list of things I was going to read here, but a lot of it has been said already. What I would like to mention is obviously my name is Alan Lambert, I am the Mayor of the City of Romulus. The City of Romulus is approximately 25 miles west of Detroit. We have a population of about 25,000 people.

Detroit Metropolitan Airport sits right in the middle of our city. You know, I have heard today about Indian gaming, and I have heard about land claims. I believe I am in favor of H.R. 4115 and H.R. 2176, which I believe are land claims, but also open the land claims up to casino gaming. That is where the City of Romulus comes in.

In November or December of 2003 the City of Romulus had a referendum vote on casino gaming that was passed. This isn't the first time I have been here. Obviously I have testified before your committee before. With Michigan being in a one state recession, hundreds of thousands of jobs going away, as the Mayor of my community, I believe this will benefit not only our community, but also the entire southeast region and the State of Michigan.

Governor Engler and Governor Granholm have supported this project. We have been patiently waiting for several years now, and meanwhile, the economy worsens, people are losing jobs and Wayne County, the county that Romulus sits in, is ranked among the top two United States where home foreclosures.

I believe these somewhere around 2,700 union jobs that Congressman Dingell had mentioned earlier would certainly help the City of Romulus, the region and the state. I personally like to thank Congressman Dingell, Congressman Bart Stupak, Congressman Kildee. Thank you for your support on this. I think it is important that both Governor Engler and Granholm realize how important this is, especially at this time with such a bad economy in Michigan.

The City of Romulus is working with Wayne County on a concept called Aerotropolis, which is supposed to bring regional economic development to our city and along the I-94 corridor extending from the Detroit River to Ann Arbor. Romulus is centrally located along

the corridor, and if a casino would come there we could obviously use that as a catalyst to jump start other development and make the Aerotropolis dream a reality.

Implementation of the Aerotropolis plan will place the region front and center of the new economic investment in Michigan. The Sault project can also be an additional catalyst obviously for other developments to come to the area. In closing, I just want to stress the urgency of having this done, land claim, casino gaming.

Now, obviously you deal with the land claim part of it, and hopefully, the casino gaming is a part of that. I thank you for listening. I am here representing my community in southeastern Michigan. Thank you very much.

[The prepared statement of Mr. Lambert follows:]

Statement of The Honorable Alan R. Lambert,
Mayor, City of Romulus, Michigan

My name is Alan R. Lambert and I am the Mayor of the City of Romulus. Romulus is located in Wayne County, Michigan, which is approximately 25 miles west of the City of Detroit. We have a population of approximately 25,000. Romulus is the home of Wayne County Metropolitan Airport, which is located directly in the middle of our City.

In December of 2003 Romulus had a referendum vote asking our residents if they would want a casino development in the City of Romulus. The residents overwhelmingly voted in favor of allowing a casino development in the City limits. I believe, as do the residents of Romulus, that this casino would be a benefit to the City of Romulus, and would also provide huge benefits to the entire region, as well as to the State of Michigan.

Former Governor Engler agreed when he signed a settlement agreement with the Sault Tribe in December 2002, resolving the land claim. Governor Granholm also has approved the Settlement Agreement and has asked for your support.

We have patiently waited for this to move forward as the Michigan economy has worsened. We are concerned that the most vocal opposition casino may not even be from our area.

With Michigan in a one-state recession, jobs are leaving the State faster than any other state. We live in one of the leading counties in the nation for the number of home foreclosures, and it is getting worse each day. We have lost hundreds of thousands of jobs in Michigan, and there is no one bringing those jobs back. I feel that a proposal such as the casino could bring 3 to 4 thousand new jobs and millions of dollars of revenue, not only to the City of Romulus, but also the southeast region, and the State of Michigan. This is a win-win for everyone. This is something that has to be done, and somebody has to step in and help.

I want to personally thank Congressman John Dingell, Congressman Bart Stupak, and Congresswoman Candice Miller for all their efforts in Washington. I also want to thank Governor's Engler and Granholm for their support. They all understand the importance of the project and its impact to the state and region.

In addition, it is important to note that the City of Romulus is working in partnership with Wayne County, the Airport Authority staff, and the neighboring communities on an "Aerotropolis Regional Economic Development Plan". As you may be aware, the Aerotropolis plan includes the development and growth of new industry, high tech business and quality entertainment opportunities along the I-94 corridor, extending from the Detroit River to Ann Arbor. Romulus is centrally located along this corridor and the casino located here would further act as a catalyst to jump start this Aerotropolis dream into a reality. Implementation of the Aerotropolis plan will place this region front and center for new economic investment in Michigan.

The Sault project can be the catalyst for additional developments to come to the City, the Aerotropolis, and southeast Michigan.

In closing, I want to stress the urgency of getting this approved for the positive economic impact it would have to our area.

The CHAIRMAN. Thank you, Mayor.

Mr. Tomion.

STATEMENT OF MR. KARL TOMION, CITY MANAGER, CITY OF PORT HURON, MICHIGAN

Mr. TOMION. Thank you, Mr. Chairman. I am Karl Tomion, I am the City Manager of Port Huron, Michigan. This afternoon we have heard from our Michigan delegation and from Mayor Lambert talking about the one state recession that has been going on in Michigan.

The reason that Michigan has this recession going on is simply because of all the manufacturing jobs that our country has lost that have gone offshore. Twenty-five percent of them have been lost in the State of Michigan.

I know you understand that the State of Michigan has a very high unemployment rate, but what you probably don't understand unless someone has brought to your attention earlier is our city, the City of Port Huron, is in considerably worse shape than the State of Michigan and the United States.

I think that is why Governor Engler chose the City of Port Huron as the site for the Bay Mills proposal. Our unemployment rate in December 2007 was 13.8 percent. That is when the United States' unemployment rate was 4.2 percent. Our unemployment is three times that of the nation. To put that in human terms, in Port Huron one out of seven workers is unemployed.

Unemployment isn't the only challenge that is facing the City of Port Huron. We actually have problems with two very large Federal mandates, Federal projects, that are taking place in our community that are having an adverse impact on our economy. The first is an EPA order to separate our combined sewers.

Port Huron is a historic town. We are over 150 years old, we have some sewers that were built before the 1900s and our 32,000 residents have been ordered to separate these sewers at a cost of $185 million. What is worse about that is that 95 percent of that cost has got to be borne by our citizens.

Our sister city, Sarnia, Ontario, which has been referred to earlier this afternoon, directly across our international border a few hundred yards away has the identical problem of the City of Port Huron. In Canada, in Ontario, in Sarnia, the Federal government picks up a large portion of this cost and the City of Sarnia only has to pay a third of the cost.

The revenue sharing provisions of the Bay Mills proposal is going to help the City of Port Huron close this gap, the gap where we are currently paying 95 percent of the cost when Sarnia is paying 33 percent of the cost. The second Federal infrastructure project that Congresswoman Miller mentioned in her testimony today is the expansion of the Blue Water Bridge Plaza.

This is the plaza that connects the United States with Canada and the City of Port Huron with Sarnia. Here, the Federal government is going to take 60 acres of property from us, this is a community of only eight square miles, and it is going to involve a large portion of our business community and two viable residential areas.

With the Bay Mills agreement we are hoping to provide some mitigation. We plan to turn this disadvantage into an advantage, and try and take our third busiest crossing in the United States and turn it into an entertainment venue. We need to restructure

our economy. We need to move away from auto parts, which is our primary base and which we have lost 1,000 jobs in the last few years.

Again, in this example, Sarnia, Canada, our sister city, is far ahead of us. Sarnia has already been permitted two gambling facilities. Combined, these casinos receive 1.3 million visitors a year, and they have shared $37 million in local revenue sharing with that community. These casinos estimate that 80 percent of the people that are visiting those casinos are from Michigan or elsewhere in the United States.

It is very frustrating for our citizens to watch the American dollars being spent in the casinos in Sarnia. I know Congresswoman Miller made reference to this picture that I submitted to the Committee earlier, but here you can see the site of the proposed casino, and you can read the advertisements for the casinos in Canada.

This is extremely frustrating for our residents. With the Bay Mills agreement we think that our ability to compete in this important market will be significantly enhanced. I think it is also important, since we have heard a lot about this this afternoon, to point out that this market is not currently served by Detroit or by Mt. Pleasant.

There has also been discussion in this hearing today about division. While there may be division in our congressional delegation, our community is not divided on this issue whatsoever. In fact, it has received unprecedented support.

As has been mentioned earlier, the original agreement was approved by Republican Governor Engler, the existing agreement by Democratic Governor Granholm. It has the support of both of our U.S. Senators, Debbie Stabenow and Carl Levin, it had the support of our former Democratic Congressman David Bonior, and our current Congresswoman, Candice Miller.

In summary, I know that all of you are concerned about the loss of jobs in Michigan and across the country to offshore competition, but you need to understand that for Port Huron offshore competition isn't China, it is Canada. All that we are seeking is a level field, a level field where we can compete fairly. Thank you.

[The prepared statement of Mr. Tomion follows:]

Statement of Karl S. Tomion, City Manager,
City of Port Huron, Michigan

Thank you for inviting me to testify before the House Committee on Natural Resources concerning the City of Port Huron / Bay Mills Casino Land Settlement Proposal and permitting me to submit these comments for its consideration.

While I am not familiar with the problems regarding the land claims for Charlotte Beach, I am the Chief Administrative Officer of the City of Port Huron, which is also my hometown.

During my childhood while I pursued my education from elementary school through community college, Port Huron was arguably one of the most successful urban core cities in our state.

In 2006, when I became Port Huron's City Manager and returned to my hometown, it had changed dramatically and is now facing some of the most serious challenges of any comparable community in Michigan.

THE ECONOMY

Our economic crisis results primarily from the negative forces affecting the State of Michigan. As the Committee is undoubtedly aware, Michigan has been suffering a long-term single state recession for the past several years. Of all the manufacturing jobs lost to foreign competition in the United States, 25% of these have been

from Michigan. The severity of this problem is most easily summarized from the following unemployment statistics.

	United States	Michigan	**Port Huron**
October, 2007	4.4%	7.0%	**11.9%**
November, 2007	4.5%	6.9%	**11.7%**
December, 2007	4.8%	7.4%	**13.8%**
2007 Annual Average	4.6%	7.2%	**12.6%**

This means one out of seven workers in Port Huron was unemployed in December of 2007.

While Michigan leads our country in unemployment, Port Huron has an average rate that is 75% higher than the entire state of Michigan. This has occurred because Port Huron's economic base has lost more auto manufacturing jobs proportionately than the state or country to offshore competition.

In the past three years, our town of 32,000 has lost over 1,000 manufacturing jobs with the closing of automotive suppliers Collins and Aikman, Modern Plastics, and Takata.

EDUCATION

Our ability to restructure our economic base to recruit service sector/knowledge based economies has been hindered by our undereducated workforce illustrated in the following comparison.

	United States	Michigan	**Port Huron**
High School Graduates	80.4%	83.4%	**76.8%**
Bachelor Degree or Higher	24.4%	21.8%	**11.3%**

When Port Huron has less than half of the college-educated workers as the United States and Michigan, it's clear to see why our economic development options have been significantly limited.

As economic conditions in the United States worsen, the anticipated recession will negatively impact our remaining employers. This will result in additional loss of manufacturing jobs, and we do not think it is unrealistic to expect our jobless rate to reach 15%.

FEDERAL MANDATES

At this time of economic crisis, two unfunded Federal mandates are threatening our ability to provide basic public services. The first is the United States Environmental Protection Agency's order to separate our combined sewer overflows. Last year, our City celebrated its 150th birthday and, as a historic urban center, we are being mandated to replace over 40% of our entire street, sanitary and storm sewer infrastructure.

The total estimated cost of these improvements is $185 million. We estimate that our utility rates need to increase 120% over the next five years and we anticipate similar increases for several years thereafter.

Dramatically raising these rates over a short period of time will create a hardship for our citizens, many of whom are unemployed, elderly and otherwise low income. It also poses a major disincentive for economic investment.

At the same time, the Federal and State government are proposing to spend over $400 million to increase the size of the international Blue Water Bridge Plaza in Port Huron. The Blue Water Bridge connects the United States to Sarnia, Ontario, Canada. This is the third busiest vehicular crossing between our two countries.

This 60 acre taking will remove 150 residential and commercial properties from the center of our city. Not only will this reduce our population and tax base, but it will divide the City physically with the construction of a 1.2 mile-long concrete wall, 15 feet in height.

The Federal Highway Administration and the Michigan Department of Transportation have argued that Port Huron is only losing 2% of its economic base as if this were inconsequential. If Michigan were to lose a proportional amount of its popu-

lation base, it would be equivalent to losing our second largest city, Grand Rapids. Or if we use the nation as an example, it would be the equivalent of losing the entire population or geographic area of the state of Missouri.

Both the CSO project and the Blue Water Bridge Plaza expansion offer significant benefits to Michigan/Ontario and to the United States and Canada, but almost none to Port Huron, which suffers all of the negative consequences. Approval of the Bay Mills Casino Proposal will provide substantial mitigation of these adverse federal mandates without the need of significant supplemental federal appropriations.

CANADIAN COMPETITION

Our sister city, Sarnia, Ontario, with whom we share an international border crossing, has faced identical problems. However, the Canadian government has stepped in to mitigate them. This has frustrated and angered our U.S. citizens.

For example, in July of 2007 Canada announced a $35 million, four year project to separate combined sewers in a central portion of Sarnia (population 71,000). Canada's Strategic Infrastructure Fund (CSIF) will grant $17.4 million to the project and the province of Ontario will contribute $5.8 million. The City of Sarnia will only be required to pay 1/3 of the project costs or $11.7 million. In comparison, Port Huron (population 32,000) must expend $185 million, 95% of which will be funded with municipal bonds repaid only by our customers.

When Canada expanded its potion of the international bridge plaza, it was built largely in an undeveloped area, while we will be experiencing the loss of a fully developed commercial area and two stable residential neighborhoods. This is in addition to a prior taking of similar commercial/residential properties for a previous expansion of the U.S. bridge plaza completed in 1997.

In 1998, Canada announced plans for a new "charity casino" located directly across the St. Clair River from Port Huron. The Point Edward Charity Casino, which opened in 2000, has:

- 490 slot machines
- 38 game tables
- 531 employees
- over 700,000 annual visitors of which over 70% come from Michigan or elsewhere in the United States.

This casino has paid over $4 million a year as a grant in lieu of taxes to the municipality; an additional 5% non-tax revenue that's amounted to over $20 million to date.

In 1998, the Canadian government also approved an expansion of the Hiawatha Raceway in Sarnia. This facility included;

- 422 slot machines
- provides employment for 169 workers
- receives over 670,000 visitors annually
- has generated $17 million in revenue sharing to the City of Sarnia to date.

The location of both of these Canadian casinos is depicted on the attached photograph.

As you know, Port Huron has been unsuccessful in getting Congressional approval for our casino which would be sited a few hundred yards across the St. Clair River from Sarnia.

DETROIT'S SUCCESS

Detroit and Port Huron share similar characteristics and challenges:

- high unemployment
- low education levels
- the percentage of owner-occupied versus rental occupied are comparable (Port Huron 43% renter, Detroit 45%)
- border city facing Canadian competition with multiple casinos
- host to major international crossing
- age of average housing stock is comparable (Port Huron, 1950; Detroit, 1948)
- median household income (Detroit = $29,526, Port Huron = $31,327)

The City of Detroit has been permitted to address its challenges through a statewide gambling ballot proposal. This initiative;

- allowed three gaming casinos to be established in the City of Detroit
- imposed an 18% state tax on gaming revenues
- allocated 55% of the tax revenue to the City of Detroit for crime prevention and economic development and allocated the remaining 45% to the State for public education.

City of Port Huron residents supported this proposal to assist Detroit's economic growth. Port Huron's residents sympathized with the City of Detroit's inability to

compete with its sister city, Windsor, Ontario which had already established a Canadian casino.

In August of 2004;

- the 18% state tax on gaming revenues was increased to 24%
- 1/3 of the increase was allocated to the City of Detroit
- this has resulted in over $120 million in additional revenue.

Perhaps more important than the revenue has been the new investment in Detroit that has been stimulated by the development of the three casinos which has included:

- $500 million for the development of Ford Field, the new home of the Detroit Lions
- $300 million for Comerica Park, the new home of the Detroit Tigers
- $12 million in façade improvement program
- $30 million for a new downtown YMCA
- $400 million for construction of a 15-story Compuware Headquarters
- $500 million for the renovation of the Renaissance Center by General Motors
- $400 million investment in Belleview (formerly Uniroyal) for mixed-use development along the riverfront
- $15 million to transform the former Kresge headquarters (Kale's) into 119 apartments
- $52 million in facility bonds to renovate the historic Book Cadillac Hotel
- $150 million Cadillac Centre, 24 story mixed-use development

PORT HURON'S SUMMARY

Port Huron is a microcosm of Detroit and suffers from many of the same problems. In addition, its economic base is being undermined by two federally mandated projects: the $185 million U.S. EPA CSO Program and the $400 million Federal Highway 60 acre Blue Water Bridge Plaza expansion.

We are also at a substantial disadvantage with our sister border community, Sarnia, because the financial grant assistance of the Canadian government and its approval of two gambling facilities that are siphoning millions of dollars out of Port Huron's economy.

The Bay Mills/Port Huron casino proposal provides relief to the City of Port Huron without any major federal appropriations, increases our competitiveness with Canada, and provides an equitable settlement of the Charlotte Beach land dispute.

Port Huron is Michigan's only international border city without a casino and we respectfully request that the Committee approve the bill which is before it to help ease our economic suffering and revitalize our city.

The Bay Mills/Port Huron casino proposal has been strongly approved or supported by;

- the citizens of Port Huron in a general election
- the Port Huron City Council and the St. Clair County Board of Commissioners as well as our regional school districts
- former Republican Governor John Engler
- current Democratic Governor Jennifer Granholm
- our Democratic U.S. Senator Carl Levin
- our Democratic U.S. Senator Debbie Stabenow
- former Democratic Congressman Dave Bonior
- our current Republican Congresswoman Candice Miller.

This agreement would not only reinvigorate our economy but would also provide additional revenue for education programs for our school districts and funding to assist us with the massive CSO and Bridge Plaza federal mandates.

The CHAIRMAN. Thank you. Let me yield first to the gentleman from Michigan, Mr. Kildee.

Mr. KILDEE. Thank you very much, Mr. Chairman. I really appreciate the testimony of all of you. Let me address my first question to Chairman Parker and President Parker and Chairman Payment. For purposes of administering governmental programs and providing for public safety, how would your tribes exercise that authority in the newly acquired lands in Port Huron and Romulus/Flint, whatever one is chosen?

Would you have your own police presence there to keep order and make sure the law is obeyed?

Mr. PARKER. We would do similar to what we are doing right now at Bay Mills where we would have officers trained by the Bureau of Indian Affairs to enforce law on tribal members. We would work cooperatively with the county and the sheriff with cross-deputization agreements to make sure that the peace was kept.

That is something that we do right now. I actually started just briefly talking with the City Manager about that. Before we go any farther with that we want to find out if we are going to get this legislation through.

Mr. KILDEE. So you right now do cross-deputize in your area plus have your own police force?

Mr. PARKER. That is correct.

Mr. KILDEE. OK. Chairman Payment.

Mr. PAYMENT. Just to add to that, our officers are trained under the BIA so they have that level of training. You know, I had the privilege of working with Bay Mills' attorney about 15 years ago to get legislation through in Michigan so that our officers could become state certified, so our officers are also, and the Sault Tribe, also, state certified, and so there is no holes in jurisdictions.

Sometimes you hear about the checkerboard reservation problem and challenge. We would directly fund our own law enforcement to be able to work with our Gaming Commission. We have a lot of regulations. Earlier today it was alluded to, kind of suggested, that Indian gaming is not regulated.

We would work with our security and surveillance personnel, but we would have tribal law enforcement present, they would be state certified, and we would have cross-deputization agreements with the local municipalities so that there would be no holes in jurisdiction.

Mr. KILDEE. How would both of you characterize your relationship with the other governmental units around you?

Mr. PAYMENT. I think they are excellent. I think when we moved to get legislation so our officers would become state certified, that helped us to demonstrate the legitimacy of our officers within the local community, and since that time through a local two percent share that we do under our existing 1993 compact we give funding to each of the communities in which we have reservation and we have jurisdiction.

So we work cooperatively. We have very positive relationships not only with local law enforcement, we also do with the city council and with the local governments often putting up economic start up dollars to help look for other economic opportunities to expand and benefit those communities.

I would characterize our relationship today as a very positive relationship.

Mr. KILDEE. Mayor Lambert and City Manager Tomion, you would want to work closely with intergovernmental relations with the sovereign tribes in your respective cities?

Mr. LAMBERT. Certainly. Absolutely. In fact, just as we have been negotiating through the years and talking about certain things that has been a big issue that I think we have to get together. I think you work closely together and that is the way to make sure that people are going to be safe.

Mr. TOMION. We have had preliminary discussions, as Mr. Parker has indicated, and we are quite confident that can be worked out.

Mr. KILDEE. Jim, thank you. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Kildee. I have a question for President Parker and Chairman Payment. You may have seen this full page ad that ran in, well, probably all of the publications here on Capitol Hill this week. Should Congress role the dice with off-reservation casino deals? I am wondering if either of you could shed some light on who the supposed sponsor, paid for by Americans for Gaming Reform, Incorporated, who might be the true payers of this ad?

Mr. PARKER. It wasn't us. It is my understanding that it is a gentleman by the name of, and I will probably pronounce his last name wrong, Peter Rigoni, who has gone through and set up that and placed those ads.

The CHAIRMAN. Who is that gentleman again?

Mr. PARKER. Peter Rigoni.

The CHAIRMAN. Do you know who he represents?

Mr. PARKER. No, sir.

The CHAIRMAN. Anybody on the panel?

Mr. TOMION. I believe from what I have read in my own local newspaper that has been researching this topic that he has links to the MGM Casino interest.

The CHAIRMAN. OK. Thank you.

Mr. PAYMENT. I would just like to add to that.

The CHAIRMAN. Yes?

Mr. PAYMENT. Earlier somebody testified on the connection with Lori Wartz and Sterling Group and Peter Ellsworth with Dickinson Wright who represents MGM.

You know, the thing is when that ad came out and this mailer came out, we quickly tried to get some intel on it and tried to figure out who was behind it, but the fact that we have to research that and the fact that you even have to ask the question suggests that there is something not right. Something is not right in Denmark or Detroit.

I really enjoyed Candice Miller's quote, "Spare me the righteous indignation." If gaming interests, whether they are MGM or they are Las Vegas, are funding the kind of efforts that are intended to breed on the kind of antigaming sentiment that Congressman Rogers usually has in his district it is righteous indignation because it is clearly intended to try to eliminate competition.

It has nothing to do with the citizens of Detroit, it has nothing to do with the citizens of Romulus or Port Huron or the Indians in the UP or land claims. Nothing to do with that at all. It has everything to do with spending dollars to try to affect you, as Members of Congress, in the worst possible way. It is a contamination of the political process.

Unfortunately, we kind of accept it as a way of doing business in Congress. Well, I am not running for President, but that has to change.

The CHAIRMAN. Well, I am not either. You heard the government's testimony, both here today and in 2004, at no time in the

several years these bills have been before us has the government ever questioned the validity of your land claim. My question is would you expect them to voice that challenge if they had one?

Mr. PARKER. If they had a concern that this was not a valid claim?

The CHAIRMAN. Yes.

Mr. PARKER. Knowing our interaction with the Bureau in the past, I would more than expect them to state something for the record.

The CHAIRMAN. Thank you. The gentlelady from Virgin Islands, Dr. Christensen.

Ms. CHRISTENSEN. Thank you, Mr. Chairman. Thank you, panelists, for being here and for your testimony. Coming from a place that has our own economic challenges and having wrestled with casinos and whether to have them or not have them, and then once we did have them with competing gaming and deciding whether we should allow them and the impact on the casinos that already exist I do have some understanding of the issue from my district point of view.

None of us want to stand in the way of economic development for any part of our country or in the way of a settlement of a longstanding claim, which I don't question. I don't question the validity of the claim.

If there has been a referendum where the people of Michigan said no more gaming, and if the legislature passed a state compact that is in direct conflict with the legislation that is before us today why should we in Washington pass legislation that the people of Michigan have spoken against in principle and the legislature has as well?

Mr. PARKER. Well, I really believe that is not entirely the case when it comes to the two bills that we are talking about today. We have to remember that Governor Engler, who sat down originally and negotiated the settlement, and current Governor Granholm, are both attorneys who understand the law.

I for one do not believe that either one of them would subject either their office or the State of Michigan to anything inappropriate or illegal. So when we sat down and looked at this the referendum and everything else was there. This in no way interferes on what the laws in the State of Michigan are.

We have had a compact since 1993. I may be, besides Catherine, who is with me, the only person in the room who was directly involved in the negotiations for the compact between the then seven Federally recognized tribes of Michigan and the State of Michigan.

So I don't believe at all that this is inappropriate or in any way impeding upon the rights of the citizens of Sault Ste. Marie Tribe, the Bay Mills Indian Community, the State of Michigan, City of Romulus or the City of Port Huron.

Mr. PAYMENT. Can I answer that as well? You know, there has again been a lot of talk today about what is legal, what is not legal, what authority rests with the state, what authority rests with Congress. Clearly, you have plenary authority in Congress to settle this claim. IGRA specifically carved out the opportunity that land that is taken in settlement of a claim is eligible.

That suggests to me that your colleagues or maybe people who predated you here understood the nature of Indian claims, and why Indians were dislocated and all of the different variables that come into play that dislocate Indians from their homelands. I believe because I am optimistic about this that Congress wanted to provide a remedy for Indian people in those circumstances.

That is why IGRA was enacted specifically providing for that opportunity. We have a compact. It was signed at the same time that Bay Mills was in 1993, also the same time that Saginaw Chippewa Tribe's was, and that rests the authority with the Governor of the State of Michigan to negotiate that compact.

That has been challenged. Recently, that has been resolved, that the Governor does have the authority to enter the compacts and to amend those compacts. So when we ask, what does Michigan think about this, the authority vested with the Governor by the citizens when they elect the Governor give the Governor the authority.

On Proposal 1 specifically, and it was ready by my Congressman, Bart Stupak, that specified that voter approval requirement does not apply to Indian tribal gaming or gaming in up to three of the casinos located in the City of Detroit. So under this postulate that somehow we are doing something improper, any changes to the operations of Detroit, and I am not advocating this because we have one of those casinos, we are the only one in Detroit that is 100 percent minority owned.

That would suggest, though, that somehow anything that Detroit does and the three casinos in Detroit have to be passed by a vote of the people, both a local vote and a state vote. That is not the standard by which the people voted on. The people did vote, and they voted resoundingly, to approve Proposal 1 that specifically exempts tribal casinos.

So when we are asking what do the people in Michigan think, the Governor has the authority and speaks on behalf of the state, and the citizens did speak to specifically exempt Indian tribes.

Ms. CHRISTENSEN. I understand that. My sense is that, and I would have to go back and look at the referendum in more detail, but the sense I have is that when they voted they did not want to have anymore casinos, period, but I will go back and look at it. I hear what you said.

Mr. PAYMENT. Detroit voters voted at 64 percent to approve this bill which exempted Indian tribes.

Ms. CHRISTENSEN. OK. Also, if we pass these bills regardless of whether we say that they don't represent a precedent or not, well, even if we say they don't represent a precedent, what is to prevent other tribes with claims to land in their state from coming to us to ask the Congress to ratify and declare land exchanged, that they favor to be tribal lands so that they could build a casino?

Mr. PARKER. You know, the issue is why shouldn't you do that? If a tribe has a legitimate claim, if it has been documented, Congress has the responsibility to take care of that land claim issue on behalf of that tribe.

Ms. CHRISTENSEN. No matter where the land is, the distance from the original tribal lands and whether or not there is agreement from other Native American Tribes that are involved that have to also agree?

Mr. PARKER. I don't know of any statutory language that requires what you are talking about to take place. I would like to just very quickly, because you brought it up, talk about the distance argument. That is something that is relatively brand new that tribes are just finding out about. Actually, in one way I am kind of glad about that because my grandmother was taken from the reservation by the Federal government and put in a boarding school.

Now, the Federal government is saying no, we want to keep you on the reservation. So to that extent, that is kind of nice. I am glad that Congress and the Federal government is recognizing that. I don't see that distance argument as having any viability in the claims that the Sault Tribe and Bay Mills have before this committee today.

Mr. PAYMENT. Can I answer that, too? It is not in the law. If Congress would like to put it in the law as a requirement in IGRA, you know, there has been some talk today to try to bring IGRA back up for enactment, I would urge the Congress to change the law if that is the standard that they want to create.

You know, my tribe was, again, recognized in 1972. I can see the pictures of the Indians on the wall, so you would think we are in a welcome place here.

Ms. CHRISTENSEN. You are.

Mr. PAYMENT. The process for us to become recognized happened, it took 20 years. We were left without recognition. We got recognized in 1972 fortunately because of the Methodist Mission, they donated our original property. We only have 450 homes on a very small reservation. Ninety-seven percent of our members do not live on the reservation.

To create a standard that suggests that we have to live within those original boundaries, we have 37,000 members, you know, could our economy in the upper peninsula of Michigan accommodate all of those members if they chose to move home? We do have 3,300 members who live within the three counties of Macomb, Oakland and Wayne County, and so that is our homeland.

That is where our people live now. These are our members, and we have a responsibility to those people. So what we do as a tribe, because we only get 44 percent of the funding from the Federal government, Congress could write bills to make that higher, please, but in the meantime, we have to fend for ourselves because we can't wait for Congress or the President to do it.

To do that we have to find opportunity, and that is why we are looking for where the opportunity exists. We will be honest about that and genuine about that. In order for us to begin to even scratch the surface of our needs for our members we have to find economic opportunity.

Mr. PARKER. Can I add just one more to that? In this specific case the Governor of the state directed the tribe where they were going to be able to get alternative lands. It wasn't the tribe going to the Governor. It wasn't like we had a choice. Well, let us take a look at Michigan. We want this site. No.

When we sat down with the Governor and negotiated this settlement with him and her we were directed on where those alternative lands were going to be.

Ms. CHRISTENSEN. Well, my time is up, Mr. Chairman, and I will release my time.

Mr. KILDEE. Just a statement. You and I were here when IGRA was written. We remember the laborious, long process, and we deliberately did not put any geographical limitations in because of our study of history and the advice of genealogists and historians because some tribes were moved so far from their original land, including Michigan Indians were just, I mean, treated like awful treatment.

So we deliberately after much discussion, I mean, days, probably several weeks of discussion, should we put any geographic limitation, we said no because there are some tribes that have been so far removed from what is called ancestral land that that would not be appropriate. So that was not something that just we neglected to put in. We didn't put in because we thought it would cause some problems.

Now, we probably want some rule of reason and prudence to provide that, but generally, that has been the case. When you look at the history of even Michigan Indians, how far they have been removed, so anyway, we did it deliberately, did not put any geographical limitations in.

The CHAIRMAN. The Chair thanks the panel for being with us. Panel No. 3 is composed of the following individuals. The Honorable Kwame Kilpatrick, the Mayor of City of Detroit, Michigan; The Honorable Fred Cantu, the Chief, the Saginaw Chippewa Indian Tribe, Mt. Pleasant, Michigan; and Mr. Joe Conroy, the Director of Government Operations, City of Flint, Michigan. We welcome all the panel.

I am going to recognize the gentleman from Michigan for special recognition here, but before, I understand the Mayor has to leave because although it is 70 degrees here in Washington there is an ice storm approaching Detroit, and so the Mayor must leave.

I can't understand why the air is always hotter inside the beltway than elsewhere in the country. The Chair recognizes the gentleman from Michigan.

Mr. KILDEE. Thank you very much. First of all, I welcome all the guests. They are all friends of mine, and I know them very well. I am pleased to introduce especially to the members of this committee my very good friend and former State Senator, Joe Conroy, of Flint, Michigan. Joe was first elected to the Michigan House in 1977 and later served in the Michigan Senate until 1998.

He has continued to serve in our hometown of Flint, Michigan, as the Director of Governmental Operations for Flint Mayor Don Williamson. Once again, I thank you for having him testify before us because Flint is one of the cities that is in the agreement signed by the two Governors. Thank you for being here, Mr. Conroy. Thank you, Joe.

The CHAIRMAN. Mr. Mayor, you may proceed.

STATEMENT OF THE HONORABLE KWAME KILPATRICK, MAYOR, CITY OF DETROIT, MICHIGAN

Mr. KILPATRICK. Thank you, Mr. Chairman, to you and to Congressman Kildee and members of the Committee. I am Kwame Kil-

patrick, Mayor of the City of Detroit. I will shorten my remarks because there has been a lot of discussion today.

We are a city of communities of hard working families that collectively have withstood tremendous economic challenges, and yet, we are experiencing a revolutionary transformation of our downtown and many of our neighborhoods in the city.

Before I was Mayor of the City of Detroit I was leader of the state House and member of the Casino Oversight Committee, one of the authors and sponsors of the bills which brought three land based casinos to Detroit, and I also worked very hard on the second round of compacts in the state legislature.

Thank you for convening this important hearing on H.R. 2176 and H.R. 4115. These legislative proposals address the settlement of certain land claims of Bay Mills Indian Community and of the Sault Ste. Marie Tribe of Chippewa Indians.

I have worked with both of these tribes on different issues, Bay Mills on the issues of charter schools, and Sault Ste. Marie on the issues of casinos, since I was elected in the state House. Essentially, these two bills would authorize and permit these tribes to open and operate casino gaming facilities in close proximity to the casinos that are located in the City of Detroit far away from their tribal lands in the upper peninsula of Michigan.

As further discussed herein, the two legislative proposals will be very detrimental to our city for a number of reasons. Our city council unanimously has voted against the bills. Several members of our community, several of our elected officials including our two congresspeople, as well as many of our county commissioners, state Representatives, state Senators, have strong opposition to the enactment of these bills.

Mr. Chairman, the position that I must strongly advocate for today is unfortunately at odds with many of my friends in the Michigan congressional delegation. However, it is imperative that I speak on behalf of the future health and vitality of what we are calling the next Detroit and how these bills before the Committee today may severely harm the positive trend that we are experiencing in our city.

I also ask the Committee to take note that there are several people within our delegation that are supportive of our position today as well. I believe that there are significant issues involved in this Indian land claim, I believe there are significant issue when it deals with IGRA involved in the proceedings today, but my testimony does not focus on these matters.

Rather, I would like to share with you the critical information regarding the revitalization of our city. I have heard several times today that how would it impact the City of Detroit with new casinos coming forward? First, I want to give you some insight on the recent progress we are making in the City of Detroit.

Because of our partnerships with the private sector philanthropic community and also our city government working together we have managed our way through a tremendous crisis in the City of Detroit. In 2002 when I first assumed office we had a $300 million deficit. Congress may remember everybody was predicting us to be in receivership.

All the papers were even going as far as to pick the receiver that would be coming in to the City of Detroit. We didn't go into receivership. We stopped it. We had to make some very difficult decisions to do that.

We cut our workforce by 25 percent, we negotiated significant pay decreases and benefit concessions for the first time in history with our labor unions and our employees, we made critical adjustments with our uniformed employees through binding arbitration agreements, the first time the city had ever won those, we cut over 25 percent our outside contracts, we had to make the painful decisions to close fire stations and police stations.

While the state continues to carry over tremendous deficits in the billions we have balanced our budget in the City of Detroit. As a matter of fact, Standard & Poor's just recently about two weeks ago upgraded our bond rating, and we have started to move forward. We have developed over 75 buildings, large and small, in downtown Detroit.

The last hotel to be built in our city, a named hotel, was 1989, the Atheneum Hotel, before I took office. We have built seven new hotels in downtown Detroit including the $180 million renovation of the historic Book Cadillac. We have built more new housing in our city than ever in the history of our town.

Our Brownfield Authority has completed 21 projects in 2006 alone. Last year we broke ground on our east riverfront, which now two new high rises of 600 new housing units are going up. We have opened employment training centers which have enjoyed successful retraining and job placement rates in the hospitality industry, construction industry and the healthcare industry.

We have also gotten a few of our regional businesses to move downtown with their headquarters. Quicken Loans was the last one which is moving 4,000 plus jobs to downtown Detroit. We have also received a number of accolades from Major League Baseball for hosting what they call the most successful major league all star baseball game ever in 2005 and from the NFL for hosting the Superbowl in 2006, and we recently snagged from the NCAA the Final Four for next year.

Of course, everyone is invited. These achievements are the product of focus, a development commitment, and a strategic plan and teamwork for implementation. The State of Michigan has experienced the longest economic downturn in the history of our state. The economy hasn't been this bad in our state since the Great Depression.

I have not seen the state develop or employ the same type of aggressive strategy to address its own financial difficulties, which unfortunately leads us to this moment in time today. We are pitting Port Huron, against Romulus, against Detroit.

Three cities that have suffered in this horrible economy are now fighting each other over this knee jerk reaction to an economic solution in putting two casinos in two places that would take away from the other. A very prominent economic driver of these accomplishments has been our casinos. As I have said before, I have worked with Chairman Payment.

Chairman Payment is a majority owner, his tribe is, of Greektown Casino in the City of Detroit. All the studies can say

what they want, but he knows his bottom line right now is suffering. He is losing money right now. MGM committed to the City of Detroit and built an $833 million casino, gaming, entertainment resort complex in our city.

Since that building has been open he has lost revenue. Motor City has lost revenue. There aren't new gamers coming into the City of Detroit. These are the same people now that are choosing to go to MGM and not go to Greektown. Another casino in this mix will only hurt the total vitality of all the casinos.

Windsor Casino, as it was mentioned, in Canada is right across the water. Before we built our casinos they were making about half a billion dollars a year. Now, they are struggling and trying to figure out how to stay open. We don't have the market for another casino. These casinos will take substantially away from the City of Detroit.

We had a statewide ballot initiative, which was mentioned here several times, in 1996 where we in the legislature wrote what would happen with these casinos. We wrote in the statewide percentage, the City of Detroit percentages. The city has received over $1 billion to date in wagering taxes from our casinos, over $100 million for municipal service fees that we put inside the contract.

The state has received over $1.5 billion, and that does not include other investment. The MGM Casino Hotel was the largest construction project in Michigan when it was going on, and probably still is the largest construction project in Michigan that we can figure out ever. Also, the $400 million construction project of the Motor City Casino and Hotel as well as what Mr. Payment and the Sault Tribe along with their partners are doing in Greektown and downtown Detroit.

Together, they employ over 7,500 people in the City of Detroit, but not just Detroiters. The people that work at the Detroit casinos live in Port Huron, they live in Romulus, they live in Oakland County and they live around the region. It is not a Detroit thing, it is a regional thing. They purchase goods.

Companies that do business with our casinos do business, and they reside in Romulus, and Port Huron, and Flint and other cities. My administration worked hard to seal these permanent casino deals. These deals were sitting on the table when I walked in the office with no permanent solution in sight, lawsuits flying all over the place.

We went to Las Vegas, put everybody at the same table and negotiated an end to the lawsuits and then new, permanent casino agreements. Because of those agreements our city now receives $470,000 in casino revenues daily. It is the only cash that is deposited into the city's account on a daily basis every day at 3:00.

That is about $13.5 million monthly. These revenues from the casino are a significant source of our city revenue. Why? Because over the course of the same time period the state, which is advocating for new casinos today, has taken more than $161 million from us in state revenue sharing and other types of funding that they used to give to the City of Detroit.

So as much of the dollars that they have backed out of the City of Detroit, we continue to make adjustments, make cuts, make transitions, make plans, to continue our city and our vibrancy mov-

ing forward. Clearly, the revenue from the casino listed above is critical to the daily budget and maintenance of our city.

I also want to highlight last a profound study, and I know studies, as I close, have been mentioned here before, but this one is from the University of Michigan, which is also the Dean of the Congress. It is Chairman Dingell, Congressman Dingell. This is a quote from the study.

"The three Detroit casinos can be viewed as the spearhead of growth in the Detroit region's hospitality sector. The casinos have grown consistently over the past seven years while most of the rest of the state economy has languished. Direct employment for the three Detroit casinos is projected to be about 10,800 workers by 2009."

"The total number of jobs contributed in Michigan by the Detroit casinos is up to 30,000 in 2007. That is 30,000 jobs in the region that is facing unparalleled manufacturing job loss. The result of this initial study to confirm though that the health of Detroit casinos is very important to the overall health of the Detroit region and the State of Michigan."

These facts presented by the University of Michigan I believe speak to what I have been saying here today. These revenues assist the city to improve its neighborhoods, infrastructure and services provided to its residents. A Map Quest of our region shows that Romulus is 20 miles away. MGM constructed a casino two miles away from the other two, and they are already hurting.

They are already hurting. To put two more casinos just 20 miles, or 60 miles away where Port Huron is, will hurt them even further. It is not hard to determine that opening congressionally mandated off-reservation casinos with short distances away from Detroit will significantly inhibit our ability to continue to revitalize and invest in the City of Detroit.

Mr. Chair, I will simply say without getting in all of this IGRA stuff in closing in 30 seconds that our challenge in Detroit is the same as the challenge that has been raised here by the tribes. We are not immune from the economic pressures that have been going on in this country. I don't believe that there is a city, a region or a state in this country that has been harder hit or hardest hit like Detroit has.

If we are saying now that we are going to put one impoverished community against one more impoverished community and stop the small gains we have made, then that is not sound economic policy. I have made this I think argument to the Governor. I think that is why the Governor is not here today.

Because I believe yes, that the Governor wants to figure out how she can get eight more percent of revenue out of casinos, but when you diminish the total pot it is not more revenue to the state at all. I believe there are studies that say that, the Casino Committee said it in 1997 and 1998, and I believe we are realizing that in Detroit with the emergence of these huge, permanent facilities.

We see that there are winners and losers even in that. Two more casinos would take jobs away, it will crush our city and state budget and will be very detrimental to the citizens of the City of Detroit. Thank you, Mr. Chair, for the opportunity to be here.

[The prepared statement of Mr. Kilpatrick follows:]

Statement of The Honorable Kwame Kilpatrick,
Mayor, City of Detroit, Michigan

Chairman Rahall, Ranking Member Young and other distinguished members of the Resources Committee, I am Kwame Kilpatrick, the Mayor of Detroit, Michigan. Detroit is a great American city of industry that also has a rich cultural, educational, sports and entertainment heritage. We are a City of communities and hard working families that collectively have withstood tremendous economic challenges, and yet our city is experiencing a revolutionary transformation of its downtown and neighborhoods. Thank you for convening this important hearing on H.R. 2176 and H.R. 4115. These legislative proposals address the settlement of certain land claims of the Bay Hills Indian Community and of the Sault Ste. Marie Tribe of Chippewa Indians and have very significant implications for Detroit and an important component of our community's revitalization strategy. Essentially the two bills would authorize and permit these tribes to open and operate casino gaming facilities in close proximity to casinos that are located in the City of Detroit—far away from their tribal lands in the Upper Peninsula of Michigan. As further discussed herein, the two legislative proposals will be very detrimental to the City and for that reason, the City of Detroit, the Detroit City Council and numerous Detroit elected officials and community leaders strongly oppose their enactment.

Mr. Chairman, the position that I must strongly advocate for today is unfortunately at odds with some of my friends from the Michigan Congressional Delegation. However, it is imperative that I speak on behalf of the future health and vitality of the Next Detroit, and how these bills before the committee today may severely harm this positive trend. Also, I ask you to take note that there are other key leaders of Michigan's congressional delegation who share the concerns of Detroit in this matter.

Mr. Chairman, while I believe that there are significant issues pertaining to Indian land claims settlement policy and to the Indian Gaming Regulatory Act (IGRA) involved in the proceedings today, my testimony does not focus on these matters. Rather I would like to share with you critical information regarding the revitalization occurring in our community and how we believe sanctioning the construction and operation of additional casino operations outside of the City will establish a dangerous precedent greatly and negatively impacting the progress being achieved.

First of all, I want to give you some insights into recent progress my Administration, business and civic leaders and Detroit citizens have made to improve the quality of life in our city. There is real optimism about the future of our city. There are signs of growth and recovery throughout Detroit. We have developed more than 75 buildings downtown large and small. We have built seven new hotels, including the deal for the $180 million renovation of the historic Book-Cadillac hotel. This historic facility will house a four star Westin hotel with 455 rooms and have 67 condos on its upper floors, with at least two of them going for more that $1 million. Imagine that—people paying over a million dollars to own a condo in downtown Detroit. In addition, a development team has bought the air rights of the parking deck being built next to the Book. They are going to build 80 upscale condominiums on top of that garage. The whole concept of buying air rights is common in cities like New York and Chicago, but it has never been heard of in Detroit until now. We have several new housing projects in motion including an 88 acre development on the east side providing 300 new single family homes to our City's residents. Our Detroit Brownfield Development Authority completed 21 projects in 2006 alone, mostly in neighborhoods. Last year we broke ground on the east riverfront on two developments that will create 600 new housing units along with retail and restaurants. We have built 3 new recreation centers in neighborhoods that had not seen rec centers in 20 years. We have instituted historic property tax cuts in neighborhoods. We have opened two new employment training centers, which have enjoyed successful retraining and job placement rates. We have enticed major regional employers to move their headquarters downtown, most recently Quicken Loans, the nation's largest online mortgage lender with its 4,000 jobs. We received national recognition for our success hosting the Major League Baseball All Star Game in 2005 and the Superbowl in 2006. We have built two new sports stadiums downtown and many sports pundits tag our Detroit Tigers as the team to beat in 2008.

These dramatic improvements to the City of Detroit are not just happenstance. A very prominent economic driver to these accomplishments has been the establishment of three casinos within the City's boundaries. These three casinos, approved by a statewide ballot initiative in 1996, have provided over $1 billion to date in wagering taxes and percentage payments, and the city received another $100 million in Municipal Service fees. That does not include investments held with in the City's

limit to construct the new casinos. For instance, the $800 million MGM Grand Detroit Casino & Hotel was one of the largest construction projects in the State of Michigan when it was being built. The $400 million MotorCity Casino & Hotel preserved a major Detroit landmark by expanding on its current site to provide a uniquely Detroit experience. These three casinos in Detroit employ over 7,100 hard-working Detroit residents all of whom pay taxes, purchases goods, make rent and mortgage payments and contribute to the overall economic and social well being of our city.

My administration worked hard to seal the permanent casino deals for the city. Included in the deal, the city receives a lump sum of $4 million when a casino obtains $400 million in adjusted gross receipts; in addition, the city receives another 1% payment during this period. The city also receives 1.25% of adjusted gross receipts for municipal services supplied to the casinos. As an example of the impact this funding has, the city currently receives approximately $470,000 in casino revenues daily or approximately $13,500,000 monthly. These revenues from the casinos are a significant source for the city. For instance, collected casino revenues nearly cover the fire services for the entire city of Detroit, and approximately one-half of what the City expends for police services.

Over this time period, revenues from income taxes decreased over $100 million annually (from a high of $378 million in FY1999-2000 to $277 million in FY2006-07). In addition, annual cuts to State Revenue Sharing to the City amounted to $61 million annually (from $333.9 million to $272.7 million). Clearly, the revenue from casinos listed above is critical to the daily budget and maintenance of the City.

I also want to highlight some very profound findings from a recently released report from the University of Michigan, which I would like to submit in its entirety for the record. And I quote:

- the three Detroit casinos can be viewed as the spearhead of growth in the Detroit region's hospitality sector. The casinos have grown consistently over the past seven years while most of the rest of the state economy has languished.
- the three casinos combined to contribute close to $450 million in direct taxes, fees and assessments to the state and local government treasuries in 2007, while at the same time paying out over $200 million in wages to their employees and investing almost $650 million in construction projects. These construction projects include some of the historic development initiatives I just mentioned.
- direct employment for the three Detroit casinos is projected to grow to 10,800 workers in 2009 and "the total number of jobs contributed in Michigan by the Detroit casinos up to 30,000 in 2007." That is 30,000 jobs in a region that is facing unparalleled manufacturing job losses.
- The results of this initial study do confirm, though, that the health of the Detroit casinos is very important to the overall health of the Detroit region, and to the state of Michigan.

These facts presented by the renowned independent views of the University of Michigan directly point to the fact that the City of Detroit's three casinos are a significant driver in the generation of the Next Detroit. These revenues assist the City to improve its neighborhoods, infrastructure and services provided to its residents. A Mapquest of the region shows that Romulus is just 20 miles away from the City and Port Huron is a mere 60. It is not hard to determine that opening congressional mandated off-reservation casinos within such a short distance from the City of Detroit would significantly inhibit our ability to continue to revitalize and invest in our city.

The second part of my statement is to address the unprecedented approach these pieces of legislation take on establishing casinos. As many of you know, the three casinos currently operating in Detroit were approved by a majority of Michigan voters in 1996 by ballot initiative. Again, these were not just Detroit voters, they were Michigan voters from across the state who voted in a state wide election to establish three casinos within the City's boundaries. The City took this mandate very seriously and worked very hard to select the casino developers, establish a meaningful partnership between the casinos and the City, participated in the site selection and proved the critical design elements of the casinos and assured itself of their financial integrity. In my very strong view, we brought these casinos to the City of Detroit in a straightforward, lawful and deliberate manor.

H.R. 2176 and H.R. 4115 seek to circumvent the proceedings long set by the Indian Regulatory Gaming Act established in 1988. In fact, these specific land claims have been denied at various levels of the judicial system, most recently the U.S. Supreme Court. They set an unprecedented congressional mandate for casinos. I want to stress that Congress has never mandated a casino placement in U.S. history. In fact, a cofounder of the Native American Caucus stated before this Com-

mittee in 2004 that the "unintended consequences will be to set dangerous precedents that would cease to undermine the IRGA and would promote bad public policy regarding Indian Land Claims Settlements."

In closing, clearly, this legislation would severely harm our City's ability to rebuild and revitalize. We have made great strides and will continue to do so. The investments and the revenues from our three hard fought after casinos are paramount to these efforts. However, as a former state legislator and majority leader of the Michigan House of Representatives, I caution you against creating unprecedented congressionally mandated casinos by enacting these pieces of legislation. By doing so, I fear you will be endorsing an infinite number of land claims that will inevitably come before your Committee in years to come.

Thank you for your attention on this important issue.

NOTE: The attachment, "The Contributions of the Detroit Casinos to the Economy of Michigan" submitted to MGM Grand Detroit submitted by George A. Fulton and Donald R. Grimes, Institute of Labor and Industrial Relations, University of Michigan, January 2008, has been retained in the Committee's official files.

The CHAIRMAN. Thank you, Mr. Mayor. I know you have to run. I am going to yield my time to the gentleman from Michigan, Mr. Kildee.

Mr. KILDEE. Well, I just want to thank the Mayor for his presence here today. I have great affection for Detroit. I went to college in Detroit, taught high school at University of Detroit High School there. You said you were able to avoid receivership. That is a real blessing. Flint went into receivership.

As a matter of fact, Mr. Conroy come in with the new mayor and pulled us out of receivership, which is a great achievement. I commend you for what you are doing, and I appreciate your testimony. I won't keep you because I know the weather between here and Detroit. I fly that about every week. So take care. God bless you.

Mr. KILPATRICK. God bless you, Congressman. Thank you.

The CHAIRMAN. Gentlelady from Virgin Islands.

Ms. CHRISTENSEN. Yes. Thank you, Mr. Mayor. I know you are getting ready to leave, but I think Chairman Dingell referred to this Hillsdale policy group analysis that said that with the new casino in Romulus or Port Huron any affect on existing Detroit casinos would be de minimis.

Then on the other hand, some claim that as the largest community in Wayne County, City of Detroit would benefit from the bills with new and good job opportunities. Your Governor is saying that with the revenue that the state will get Detroit will benefit. How do you respond to those?

Mr. KILPATRICK. Well, to try to respond to that entire question, Congresswoman, first, the State of Michigan has been continuously because of the economic pressures—I understand the pressure that the Governor has, it has to be amazing—rolling back any type of additional dollars for the City of Detroit or any city in Michigan.

It is not just us. It is Flint, it is Grand Rapids and it is everyone else. I don't see a day when they get enough money into the coffers because of two casinos to be able to help us out. I don't believe anybody in the municipal league would be able to believe that or anyone else. This is no disrespect to the tribe or anyone else because I have worked with these guys before, but the tribe alone is not in this deal.

There are other partners in this deal. As a matter of fact, when you see who is in front of the Port Huron deal you usually don't hear Bay Mills, you hear local developers and people who are try-

ing to build these casinos. In their own numbers—in their own numbers—they talk about what the hit will be to the City of Detroit.

A couple of them came to meet with me and said it will be as low as nine percent or as high as 20. Now, if it is as low as nine percent, nine percent of the $180 million we get, $18 million, that is 300 police officers. I mean, so it is not a small thing. If you take the high end of 20 percent or 30 percent, it is $72 million.

So we are talking about major numbers that are significant in providing for our city's services, maintenance and infrastructure, and that is just one casino. When you talk about Romulus, I think everybody sitting in here would agree that is going to be a large take from our casinos. When Greektown Casino and Mr. Payment do an analysis of their customer base they know where they come from.

They come mostly from down river in Wayne County, which is where this casino is being proposed to be put, or it comes from Macomb County, which is the other way which is where Port Huron is. They are very smart. They are amazingly gifted and smart, they have been in this industry for several years, they have done the studies, and this will be a substantial taking of our market share in Detroit.

The reason that we get Superbowls, Final Fours, why we get All Star games is because we have been able to create a critical mass. So last, Congresswoman, to your last question, this will impact in another way because this policy has been tried before. This is the 50 year ago policy for southeastern Michigan.

Let us forget about Detroit, and let us start building around Detroit and create things outside and maybe that will help Detroit. Unless you develop the core community you will never have the economic vibrancy that a city, or a region, or a state should. So I believe that the Governor's letter was a reaction from some bad information.

I wish I would have had a chance to bring her other studies that talked about the total number of gamblers, where they come from, gambling trends. We don't have destination casinos. People are not coming from Vegas and Atlantic City or anywhere to our casinos. These are local casinos that are very nice.

So when one wins, we all win. If you start to take away and ebb that market share, then we all will lose.

Ms. CHRISTENSEN. Thank you. Thank you for that answer.

The CHAIRMAN. Thank you, Mr. Mayor, for your very knowledgeable testimony. On a personal note, before you leave let me just say although we may not see this issue in the same light, your mother and I see a lot more issues in the same light than we do not see in this Congress.

I wanted to tell you what a great job she does and the high esteem and respect that she is held by every member of this Congress of the United States. So I am going to give mother a chance now to say goodbye to son.

Ms. KILPATRICK OF MICHIGAN. Go back to work. Get your job.

Mr. KILPATRICK. Mr. Chair, she told me about you in our briefing and told me how great you were. She told me not to think about today.

Ms. KILPATRICK OF MICHIGAN. Thank you, Mr. Chairman. No comment. There is an ice storm. The Mayor has to get back. Brilliant, as always, son. Do your job.

Mr. KILPATRICK. Thank you, Mr. Chair, Ms. Kilpatrick.

The CHAIRMAN. Thank you, Mr. Mayor.

Our next witness is The Honorable Fred Cantu, the Chief of the Saginaw Chippewa Indian Tribe, Mt. Pleasant, Michigan. We welcome you to the Committee.

STATEMENT OF THE HONORABLE FRED CANTU, CHIEF, SAGINAW CHIPPEWA INDIAN TRIBE, MT. PLEASANT, MICHIGAN

Mr. CANTU. Thank you, Mr. Chairman. Thank you for allowing my tribe to testify. My name is Fred Cantu. I am the Chief of the Saginaw Chippewa Indian Tribe. Let me start my testimony just by stating a few facts for the record. The lands on which these two tribes seek to build their casinos are in the ancestral lands of the Saginaw Chippewa Indian Tribe.

Our tribe ceded these lands by treaties to the U.S. Government. Neither the Sault Tribe nor the Bay Mills Tribe has any ancestral connections or claims to these lands. The Indians Claims Commission has ruled on this on two separate occasions. IGRA wasn't intended to allow tribes to establish casinos 350 miles from their reservations, much less on ancestral lands of another tribe.

We believe this is a dangerous precedent and would undermine gaming for all tribes. We also believe that these bills undermine the Michigan Gaming Compact which states that no tribe can conduct off-reservation gaming without a revenue agreement from the other tribes. Very simply, this is a blatant attempt by these two tribes to evade their obligation under the compact.

These bills would have Congress ratify a tribal state compact for the first time in history which circumvents the authority of the Michigan legislature. I think we all agree that these bills have absolutely nothing to do with the settlement of a valid land claim. These bills certainly have nothing to do with settling lawsuits with victimized land owners.

According to the Sault Tribe, these bills are premised on nothing more than a scam, a scam perpetrated by a wealthy non-Indian developer and two tribes willing to go along for the ride. These may sound like harsh words, but these are not mine. These are the words of a former Chairman of the Sault Tribe in testimony before the Senate Committee of Indian Affairs in 2002.

You see, the Sault Tribe was against these casinos before they were for them. According to the Sault Tribe, the Bay Mills case was a scam from the start. The Charlotte Beach scam did not originate with Bay Mills but was conceived by a Detroit area attorney who developed it specifically as a vehicle to obtain an IGRA casino and marketed it both to the Sault Tribe and Bay Mills Tribe looking for a willing partner.

This attorney first approached the Sault Tribe who rejected him. He then took it to the Bay Mills Tribe who accepted their proposal. According to the Sault Tribe, the Federal case had the air of a collusive lawsuit. The Federal complaint was filed in October of 1996.

Less than one week before the suit was filed Mr. James Hadley purchased land within the Charlotte Beach area.

A few months later, Mr. Hadley, representing himself, entered into a settlement with the Bay Mills Tribe. As explained by the Bay Mills Tribe, Mr. Hadley just happened to own some land in Auburn Hills, the city in which Bay Mills originally wanted to build the casino.

Mr. Hadley agreed to give the Auburn Hills land to the tribe to clear title to the Charlotte Beach land he had just bought just weeks before the lawsuit was filed. All of this was contingent upon the Secretary of Interior taking the land into trust to build the casino. The Department never took the land into trust.

What makes this scam even more interesting is the fact that Mr. Hadley passed away. His estate deeded the Charlotte Beach property to a Mr. Michael J. Malik and his gaming business partner. This raises the question of whether Mr. Malik had an interest in the land deal from the get go. If so, did he try to disguise his ownership in the land deal?

This begs the question that was raised by the Sault Tribe whether this collusive lawsuit was a scam, a set up in order to make this land claim seem legitimate. As stated by the Sault Tribe, Mr. Hadley was clearly not an agreed land owner. He was a willing and active participant in this scam.

That is why today we are asking the U.S. Department of Interior to investigate this matter and to request the Committee to refrain from taking any action until such investigation is complete. I would like to enter into the records the deeds that show Mr. Malik received these lands from Mr. Hadley's estate.

Today, Mr. Malik is the lead developer with the Bay Mills Tribe to build the casino in Port Huron. If this land claim was so legitimate why does it appear that Bay Mills and their developer colluded to hide their identity in these transactions? We believe the answer is clear. They didn't want anybody to know this was a scam from the outset.

Since that time, Bay Mills and their developers have pursued other cities in Michigan to build their off-reservation casino. First, Auburn Hills, then Vanderbilt, now Port Huron. The Sault Tribe also shopped their deals in several cities as well. These two tribes have most certainly put shopping in reservation shopping.

As the Sault Tribe said, Bay Mills made up the claim, entered into a suspicious settlement and collusive lawsuit and now seeks to put one over on Congress. The Sault Tribe then asked the alternate question. Why is this bill before Congress given the shady dealings surrounding this so-called land claim?

Only one fact has changed since the Sault Tribe's testimony in 2002, and that is the fact that the Sault Tribe has now been promised a casino. Everything the Sault Chairman stated about six years ago still holds true today. IGRA was meant to promote economic development on Indian reservations, not to reward tribes who scheme with non-Indian developers.

This is the only committee in the House with jurisdiction over tribal gaming, and it needs to act in the interest of all tribes. While these bills may be good for two tribes and their non-Indian developers, it is simply bad policy for Indian country. I hope this com-

mittee does the right thing and rejects these bills. Again, thank you for allowing me to testify.

[The prepared statement of Mr. Cantu follows:]

Statement of Chief Fred Cantu, Saginaw Chippewa Tribe of Michigan

Mr. Chairman, Members of the Committee, my name is Fred Cantu and I am the Chief of the Saginaw Chippewa Indian Tribe. I appreciate the opportunity to testify today against H.R. 2176 and H.R. 4115, two bills that will undermine the Indian Gaming Regulatory Act, cause great harm to our tribal specifically, and set a negative precedent for Indian Tribes across the country.

Mr. Chairman the two bills before the committee would allow the Bay Mills Tribe and the Sault Ste. Marie Tribe to build two casinos, each 350 miles from its reservation, in the historic and aboriginal territory of my Tribe, the Saginaw Chippewa Indian Tribe of Michigan.

It is important to understand both Indian gaming history and the treaty history of the Michigan Indian Tribes to truly grasp the effect of these two bills.

Between 1795 and 1864 the United States negotiated several treaties with the Michigan Indian Tribes. Beginning in 1795, a group of my ancestors, who descend from the Saginaw, Swan Creek and Black River Chippewa Bands, began negotiating and entering into treaties with the United States of America. They signed these treaties on their own, or with a group of Ottawas and Potawatonis, whose lands were located adjacent to our lands in southeast Michigan. On November 17, 1807, the Treaty of Detroit (7 Stat. 105), a land cession treaty, was signed by the group of Chippewas, Ottawas and Potawatomis and ceded most of the lands in southeastern Michigan, including the lands surrounding the Port Huron area, to the United States. However, this treaty specifically reserved the area of Port Huron, along with three other areas to the Chippewa. These areas were later ceded to the United States by the Treaty of May 9, 1836 (7 Stat. 503).

These are the lands that my ancestors hunted and fished for hundreds of years. It is the land my ancestors sold to the United States government nearly 200 hundred years ago. And these are the lands that Bay Mills and Sault Ste. Marie Tribes want to build casinos despite the fact that their reservations are several hundred miles away in the Upper Peninsula. That is why my Tribe and so many other tribes oppose these bills.

In 1986, Congress passed the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act ("Saginaw Judgment Funds Act"), for claims in southeast Michigan, including the lands in Pt. Huron and Romulus, to provide compensation for claims the Saginaw Chippewa Tribe made and won before the Indian Claims Commission. The Bay Mills and Sault Ste. Marie Tribes were not participants in the settlements legislation, even thought they attempted to claim these lands before the Indian Claims Commission. This is because the Indian Claims Commission found their claims to be totally without any supporting evidence and threw them out (a copy of the Indian Claims Commission decision is attached to this testimony). This is because the Bay Mills and Sault Ste. Marie tribes were not signatories to the 1795 Treaty of Greenville, the 1807 Treaty of Detroit, nor the Treaty of 1819, which ceded the area to the United States. The Saginaw Judgment Funds Act clearly defines the Saginaw Tribes Settlement Area (the basis for the ICC claim) lands in southeast Michigan, including Port Huron and Romulus.

In 1997, Congress approved the Michigan Indian Land Claims Settlement Act, an $80 million dollar plus settlement for five Michigan Tribes, including the Bay Mills and Sault Ste. Marie Tribe for claims in the northern and western portion of the Lower Peninsula and the Eastern Upper Peninsula., based on treaties that were signed in 1836 and 1855. The Saginaw Chippewa Tribe was not, and did not seek to be, a part of that settlement agreement because the lands that were the subject of the legislation are not the ancestral lands of the Saginaw Chippewa.

Both settlement agreements were very clear on the ancestral and historical lands of each Tribe. In the case of the Saginaw Chippewa, the Indian Claims Commission specifically rejected claims by the Bay Mills and Sault Ste Marie Tribes, in two successive cases dealing with areas in southern Michigan, including the area surrounding Port Huron, stating that there was no evidence to support their assertions. (the decisions are attached) Based on the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act and the Michigan Indian Land Claims Settlement Act, the Saginaw Chippewa ancestral territory encompassed central and southeastern Michigan and the Bay Mills and Sault Tribe ancestral territory was located in the northwestern portion of lower Michigan and the Upper Peninsula.

The Saginaw Tribe does not believe that the land claims exception to the Indian Gaming Regulatory Act was meant to allow tribes to assert land claims in one area in exchange for lands and casinos hundreds of miles away from the area where the land claim occurs. This view is also shared by the founders of the Congressional Native American Caucus and they have shared those views with the committee in previous years.

The Indian Gaming Regulatory Act, 25 U.S.C. § 2719, identifies which lands can be used for Indian Gaming, and is divided into two sections. The first identifies that tribes may game on Indian lands and reservation lands prior to October 17, 1988, the date IGRA was enacted. The second section deals with exceptions to that limitation. The exceptions are also divided into two categories: 1) Off-reservation acquisition, and 2) Acquisitions which place tribes who might not otherwise be allowed to game because they did not have lands in 1998 on an equal footing with tribes who did have land.

The off-reservation section, 25 U.S.C. § 2719(b)(1)(A) is very clear in its requirements. A tribe who chooses to game outside of its reservation, may do so if it satisfies two requirements. First, the Tribe must make a showing to, and the Secretary of the Interior must find, that the off-reservation proposal is in the best interest of the Tribe and is not detrimental to the surrounding community. Second, the Governor must concur with the Secretary's determination. The law doesn't pose any limitations on the distance a tribe may go from its reservation or whether it is even limited to stay within a specific state. As long as they satisfy those two requirements, they could potentially game anywhere in the United States.

The second set of exceptions are different, located 25 U.S.C. § 2719 (b)(1)(B)(i)-(iii), and relate to righting past wrongs for tribes who may not otherwise be able to game. These exceptions tie the land on which the tribe can game to the historical territory of the Tribe. These exceptions allow tribes to game on lands acquired after 1988 when a tribe is recognized when they establish their reservation, allow a tribe that has been restored to Federal recognition to acquire lands on which to game, and also allows a tribe to acquire lands in settlement of a land claim. In every case the Department of Interior reviews where a tribe is seeking to use one of these exceptions to acquire land for gaming, they seek to assess whether the tribe in question has historical and cultural ties to the land in question. With regard to restored lands and initial reservations, the Department has developed rigorous tests for determining whether a tribe is within its aboriginal and historic territory. With regard to the land claims exception, there has only been one time a tribe has used this exception to acquire land for gaming. In that case, the land at issue was within the tribe's land claim area and was confirmed as such by the Department of Interior. We believe this is what Congress truly intended, that a tribe using this exception would acquire lands in or near the land claim area for gaming, when they created the land claims exception.

That is not only our view, but as we mentioned earlier, it is the view of the founders of the Native American Caucus who has expressed the same view in letters to the Committee.

Mr. Chairman, if the Congress passes this legislation, every tribe in the United States with a potential land claim could petition Congress to settle the claim, and allow them build a casino anywhere in the United States where gaming is viable. The Saginaw Tribe does not believe Congress should endorse such tactics because they are contrary to the intent of the Indian Gaming Regulatory Act.

The passage of this legislation will encourage tribes to create or exploit a land claim by seeking to replace lost lands with lands in profitable gaming markets, without regard to whether they are entering into the territory of other another tribe. This was never the intent of the Indian Gaming Regulatory Act.

In addition, in 1993 the Governor of Michigan signed a gaming compact with seven federally-recognized Tribes in Michigan, including the Bay Mills Tribe, the Sault Ste. Marie Tribe and the Saginaw Chippewa Tribe. Section 9 of that compact stated that no tribe could conduct off-reservation gaming unless all the tribes agreed to a revenue sharing plan. This provision has worked well to prevent the proliferation of off-reservation gaming in the state.

Unfortunately, today we find the Bay Mills and Sault Ste. Marie Tribes trying to circumvent this compact provision by coming to Congress to settle a land claim that has never been validated. In fact, the Bay Mills Tribe has lost this land claim in both federal and state courts on both the merits and on procedural grounds. The Bay Mills Tribe lost in federal court because the court ruled that the Sault Ste. Marie Tribe was an "indispensable party" to the lawsuit since they both were the same Tribe at one point and had the same claim to Charlotte Beach if one was ever proven. In the state court, the Bay Mills Tribe lost on the merits and it was eventu-

ally denied hearing by the U.S. Supreme Court. At this time, no valid land claim has ever been proven in these cases. Not one.

Moreover, these bills would have Congress for the first time pass a gaming compact in federal legislation. Under IGRA, the states and tribes negotiate compacts and in the state of Michigan, these compacts are approved by the Michigan State Legislature. Under these two bills, gaming compacts would be approved after being negotiated by the Governor but not having been approved by the Michigan State Legislature. This would be unprecedented and undermine the authority of the Michigan Legislature and the spirit of the Indian Gaming Regulatory Act.

These bills are highly controversial within the State of Michigan. Numerous legislators within the state are opposed to the bills, and they have sent you correspondence to confirm that fact. The City of Detroit is opposed to this legislation and they have sent you a letter to state their position. Numerous Members of the Michigan delegation are opposed to this legislation.

These bills are opposed by tribes across the country. The tribes that oppose these bills recognize the dangerous precedent these bills would set for Indian Country. In addition, the practice of one tribe going into the historic and aboriginal territory—treaty territories—is so roundly rejected in Indian Country that the National Congress of American Indians and the National Indian Gaming Association have issued a joint resolution urging tribes not to conduct themselves in this manner.

Not only are these bills controversial, they are bad policy.

On behalf of the Saginaw Chippewa Indian Tribe of Michigan, I ask the Committee to reject these bills and stop every effort to get them enacted into law.

The Saginaw Chippewa Indian Tribe Of Michigan

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January 9, 2008

Honorable Nick Rahall
Chairman, House Committee on Resources
1324 Longworth Building
Washington, D.C. 20515

Honorable Don Young
House Committee on Resources
1329 Longworth Building
Washington, D.C. 20515

Dear Chairman Rahall and Ranking Member Young:

It is my understanding that the House Committee on Resources is intending to hold a hearing on H.R. 2176 and H.R. 4115, two bills that would allow the Bay Mills and Sault Ste. Marie Tribes to build casinos hundreds of miles from their reservations. Since these proposed off-reservation casinos are in our ancestral treaty territory, we would request the opportunity to testify at this hearing.

As you well know, our Tribe strongly opposes these bills for reasons we have already articulated to the Committee. However, we remain deeply concerned about the vast amount of misinformation that has been sent to committee members on this issue in recent months.

We believe these bills are not about a land claim, because the Bay Mills Tribe has lost in court on two occasions on that issue. Rather, this is an attempt by two Indian Tribes and their non-Indian developers to circumvent the 1993 Michigan Gaming Compact by exploiting a provision in the Indian Gaming Regulatory Act to get a casino for a land claim whose validity has never been proven. If the Bay Mills legislation were to pass, any Indian Tribe could make a land claim, regardless of the merits and selectively sue innocent landowners to cloud their title in the hopes of gaining a favorably located, Congressionally-approved casino. Was this really the intent of Congress when it wrote the Indian Gaming Regulatory Act? We hope the Committee will examine this and other issues if it holds a hearing.

Our Tribe believes that the Indian Gaming Regulatory Act has been a tremendous economic boost for Indian Country. It is a law that has helped Tribes across the country address the critical needs of their people. However, we strongly oppose any legislative efforts that will undermine IGRA.

Honorable Nick Rahall
Honorable Don Young
January 9, 2008 letter
Page 2 of 2

Our Tribe deeply appreciates your long support of tribal sovereignty and all the work you have done on the Indian Health Care Improvement Act. We hope that you will continue to support the integrity of the Indian Gaming Regulatory Act and reject these two bills. Additionally, we request that you allow us to testify at any hearing on the Bay Mills and Sault Ste. Marie bills, so that every aspect - positive and negative - of these bills can be explored.

Sincerely,

Fred Cantu Jr.

Fred Cantu
Chief, Saginaw Chippewa Indian Tribe

The CHAIRMAN. Thank you.
Mr. Conroy.

STATEMENT OF MR. JOE CONROY, DIRECTOR OF GOVERNMENTAL OPERATIONS, CITY OF FLINT, MICHIGAN

Mr. CONROY. Thank you very much, Mr. Chairman. I appreciate the opportunity of being here. I felt a little bit like that guy named Huckabee. In the debate a week or two ago he says hey, I am here, too. So all I would like to have you know is that we are not only here, that is, Flint is here, but I think we have the resolve to the matter of only being 20 miles from downtown Detroit because we are 75 miles from downtown Detroit, and we are about another 75 miles from the next nearest casino.

So we are quite a ways away from any competition if that is what people are worried about. I thought being in business that competition was good. Let me give you a little background on the City of Flint. We are a city that was at risk, is at risk. As Congressman Kildee indicated, we were under governance by an appointee, a financial manager, of the Governor of the state for two years.

Mayor Williamson was elected and seven or eight months later the Governor allowed him to take over that city. I think it was about eight months into his term. Since then, we have balanced the budget each year, we have had a surplus at the end of each year. In addition to that, and keep in mind, we are a community that at one time had 85,000 General Motors jobs.

I was in the legislature at the time because I remember that number. We now have about 8,000 General Motors jobs. So they are going, going, gone, is pretty much the idea with that company, so we have to do something else. You know, 30 years ago we wouldn't be thinking about casinos as a part of our total economic package, but today we have to fight for every job.

If somebody comes in our door and has 12 jobs we are going to work really hard to make that company successful. We have a lot to offer. We have probably the best cultural center. Certainly it is better than anything in Michigan and probably anywhere in the Midwest. We have a cultural center that rivals the three or four million populated cities.

It is just a fabulous center that we have. So we have positive. We have four universities, higher education facilities, in our city. We are building on that, we are building on education, but we have to also build on service. General Motors is buying out people who are being paid $28 an hour plus fringe benefits, and they are willing to pay $12 to $14 an hour for the new ones that they replace.

So we have a whole new kind of war going on, an economic war if you will, even among the jobs that are left. So the City of Flint has tried to do a good job. We have tried to set the plate. As I tell the mayor, he is setting the plate for economic development.

He has paved over 200 lane miles of streets each of the last three years, which is more than any city in America. He has demolished more boarded up, unsafe houses, two to seven houses a day—these are done primarily by city employees—and we still have a long list to go. So we are trying to clean up the mess that he inherited, and we are trying to make certain that our city survives.

Now, please, with 20 casinos, and I say 20, in our State of Michigan, is one more or two more going to just kill the golden egg? I think not. There are 17 Indian casinos and three that are not Indian owned. Those numbers are pretty close. I may be one off. I remember when I was in the Senate there were 17, so that was 10 years ago.

We are doing the best we can. We just need any kind of help we can get, and we need an opportunity to be able to talk to the Indian leadership people to see if indeed I-75, U.S. 23 and I-69 all meet. We have probably three million people within a 60, 70 mile radius. I told the mayor as he left that I have a cure to his problem.

That instead of going just to 20 miles west he could go 75 miles north, and Flint would be very happy with all that. So keep up the good work, Committee, do a good job, get this bill out, let us see the light of day on it and let all of us see if we can be a part of the future. Thank you.

[The prepared statement of Mr. Conroy follows:]

Statement of Joe Conroy, Director of Governmental Operations, City of Flint, Michigan

Dear Chairman and Members of the Committee on Natural Resources:

My name is Joe Conroy and I am the Director of Governmental Operations for the city of Flint, Michigan. My proposed testimony will be on H.R. 2176 (Stupak) and H.R. 4115 (Dingell). The testimony addresses benefits a casino can have on Flint's depressed economy.

Flint, MI—Populaton 117,068

Once known as a booming center of automobile manufacturing, with as many as 14 General Motors related auto plants, the city of Flint, in recent years, has seen its economic base decimated by the loss of nearly 85,000 manufacturing jobs since the 1980s, as General Motors' closed plants and laid off workers in order to compete in the emerging global economy. As a result of the plant closings, the city has experienced a decline in population as families migrated to other states to seek employment. Flint now has substantial inventory of abandoned housing that must be torn down; the continually declining tax base provides little resources to rebuild the community's economic base. High paying manufacturing jobs are now replaced by lower paying jobs in the service industry.

To date, Flint is continuing to feel the affects of the economic woes of the auto industry. In an effort to reduce the work force and bring on new workers at reduced hourly rates, General Motors, in June 2006, offered incentive packages to encourage early retirements of its high seniority employees. As a result, GM announced the early retirements of 47,600 employees, 3,100 of which were from the Flint area.

The economic woes of the Flint are also being felt by the entire state of Michigan. In just the past six years, the state of Michigan has lost 30 percent of its manufacturing employment or some 240,000 jobs. The Flint and southeastern Michigan areas where the majority of these auto plants were located, have been hard hit by such job losses. The long term economic deterioration experienced by the Flint community caused by the loss of these jobs and plant closings, has crippled the community in such a manner that it has been hard to recover.

The state of Michigan has the highest unemployment rate in the nation at 7.6 percent while the national average is 4.9 percent. Flint's unemployment rate is even higher than the state's at 8.3 percent. The poverty rate in Flint is at 25.2 percent. Unfortunately, Flint is now at a crossroads. These sobering job statistics and the city's economic crisis mandates that Flint explores other opportunities to help rebuild its economy and guide it to the road to an economic renaissance.

It has long been thought that a casino would be the catalyst to bring the Flint economy back to health. The idea of opening casinos locally has been one that has been bounced around Flint as far back as the early 1990s. In examining the affects of the casino industry in nearby Detroit and other Michigan cities, some of the expected benefits and possible negatives of a casino in Flint are as follows:

Pros

- Creation of new jobs
- Decrease in the local unemployment rate
- Stimulation of the local economy through the increase in local revenue
- Influx of new visitors who more than likely will spend money in the area
- Improved public infrastructure to accommodate the casino facilities
- Increase in construction jobs
- Increase in the city's local tax base
- More housing to meet the demand of workers with higher wages
- Increase in retail and hotel establishments

We believe that the positives of having a casino in the Flint area will far outweigh any negatives. Therefore, Flint is in support of H.R. 2176 and H.R. 4115, which will allow for the settlement of land claims in favor of the Bay Mills Indian Community and the Sault Ste. Marie Tribe of Chippewa Indians. The tribes will then be able to exercise their tribal rights to establish casinos within the state of Michigan.

[NOTE: The Warranty Deed submitted for the record has been retained in the Committee's official files.]

The CHAIRMAN. Thank you. Let me ask Chief Cantu a couple questions. You testified that both Port Huron and Romulus are in your tribe's aboriginal area. You also indicated 1986 legislation was enacted settling your tribe's claims in southeast Michigan including lands in Port Huron and Romulus.

Is it your position then that the tribe can veto any economic development opportunities by any government or individual because it is in your aboriginal territory even though you already accepted a cash settlement and waived your rights to such lands?

Mr. CANTU. I don't think we can veto it, but when it comes into our ancestral lands that we have treaties that have been signed by the U.S. Government I think we have every right to protect what was originally signed to those treaties.

The CHAIRMAN. Is that just for Indian tribes, though?

Mr. CANTU. For a Indian tribe that is trying to come into our ancestral lands? Yes.

The CHAIRMAN. Or any other economic development activities.

Mr. CANTU. I would say any other Indian tribe coming into our ancestral lands.

The CHAIRMAN. But not a Walmart?

Mr. CANTU. No, not a Walmart. We are the sole signatories that, as mentioned, on those treaties, and nowhere does it say Sault Ste. Marie or Bay Mills on those treaties, it says the Saginaw Chippewa Indian Tribe.

The CHAIRMAN. All right. In 2004 the Department of Interior prepared an internal memorandum signed by several high level Department officials including one who is now your lobbyist. This memo concluded that there is no evidence that Congress intended to limit gaming activity to existing reservation lands or within a close proximity.

Do you have any evidence that contradicts this opinion and supports your view that the land claims exemption of IGRA intended that lands used for gaming must be in or near the land claim area?

Mr. CANTU. I would have to check with that and get back with you on that.

The CHAIRMAN. We would appreciate that.

Mr. CANTU. Very well.

The CHAIRMAN. Mr. Conroy, your testimony discusses the harsh economic conditions in the City of Flint and the expected benefits of a casino. Do you see these as short-term or long-term benefits?

Mr. CONROY. Well, I see it every day as people walk into my office. We have a lot of disaster citizens who are in need of a lot of help. With the diminution of manufacturing—and, Mr. Chairman, I would like to point out to you Michigan has been in the top five for 30 years of manufacturing, and of course we got hurt commensurate to that dominance that we had in that general kind of arena.

So we have lost just a huge number of manufacturing jobs. They are not just in Detroit, they are not just in Flint.

The CHAIRMAN. Yes. You still are a football coach from West Virginia, too, so you are probably going to get hurt again.

Mr. CONROY. I wish you would have helped pay his way. Apparently he owes some money. We have some problems. We are working on them. We are balancing the budget, we are trying to make it work, we are pushing the school system to get better, we are trying to make a better city, we paved more streets, as I said, than any place in America in the last three consecutive years. Those are lane miles.

So we are doing the best we can. Our crime went down this past year pretty dramatically. So we have done some things that are helpful and to make the city a better place to live, but we typically have been on the high charts in terms of negative news over the years, and we are trying to change that.

The CHAIRMAN. Thank you. The gentleman from Michigan.

Mr. KILDEE. Thank you. Mr. Conroy, Joe, the City of Flint and Romulus in H.R. 4115, will be one or the other, and so there will be some competition to lure a casino into either one of those towns. Is Flint prepared to extend a helpful hand to the Sault Ste. Marie Tribe, and are they prepared to show them sites where a possible casino could be erected with all the parking needed for that?

Mr. CONROY. Absolutely. We have had this issue come up for discussion many, many years, and you have been a part of that, Congressman Kildee, and we appreciate your support on this particular bill or these set of bills. Certainly, the City of Flint will be front and center in trying to cooperate and urge adoption of our locale with land and services.

Mr. KILDEE. That is very important. I do know that we have a very active city government now. It does reach out and try to make

the city an attractive place for various types of enterprises, and that will be very important. I have the same confidence you have that we can make a very good presentation to the tribe. I send my best back to the mayor, too.

Mr. CONROY. Thank you.

The CHAIRMAN. The gentlelady from Michigan.

Ms. KILPATRICK OF MICHIGAN. Thank you, Mr. Chairman, and thank you both for coming. It is good to see my colleague. I served 18 years with this gentleman in the legislature. Good to see you, Senator. I want to go back to the chief because I think he raised some very important issues here and he kind of brushed over them, but I had a chance to listen to you more closely.

Are you alleging that there might be some illegal activity in the original land—I call it scheme, I don't know what it is, but I don't even want to use—in the original land whatever that whoever owns the land now—the person you mentioned name, and I didn't get it—was part of the original bill in the first place to get casinos down the line? Is that what you are alleging?

Mr. CANTU. I am just asking that an investigation take place into that.

Ms. KILPATRICK OF MICHIGAN. Did you say you had a deed or something that would show that the current person whose name is on the deed is now a developer for one of the tribes?

Mr. CANTU. Yes, I do, and I have it for the record. I believe in my statement I was going to submit that as part of the record.

Ms. KILPATRICK OF MICHIGAN. Without objection. I would like that submitted for the record, Mr. Chairman. I was here today on a whole other thing because I just think it is not right, it is a process we have on in Michigan and that is where it ought to be. What you have now put on the table is something far more severe which I hope this committee will look into and investigate.

We are good elected officials, public servants, here. We do not want to be involved in anything that is illegal or looks like it is illegal. Now, you are the Chief of the Saginaw Chippewa Indian Tribe whose ancestral lands these two pots represent?

Mr. CANTU. That is correct.

Ms. KILPATRICK OF MICHIGAN. Mr. Chairman, with that, I will just implore the Committee to look further into the matter.

The CHAIRMAN. Any further questions? We thank the panel. Thank you for being with us today and the testimony. The Chair wishes to thank all members for their participation today, both on the Committee and not on the Committee. We appreciate it. With that, Committee stands adjourned.

[Whereupon, at 5:34 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows:]

[A letter submitted for the record by Patrick J. Devlin, CEO, and Patrick F. Gleason, President, Michigan Building and Construction Trades Council, follows:]

Lansing Office
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Telephone (517) 484-8427 • Fax (517) 484-1038
Patrick J. Devlin, CEO
Patrick "Shorty" Gleason, President

February 4, 2008

The Honorable Nick Rahall
Chairman, Natural Resources Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Don Young
Ranking Member, Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Rahall and Ranking Member Young:

On behalf of the Michigan Building and Construction Trades Council, we are writing in support of H.R. 4115, which is currently under consideration in your committee.

Introduced by Congressman John D. Dingell, this legislation settles a century old land claim in Charlotte Beach, Michigan. It approves a land settlement agreement between the State of Michigan and the Sault Ste. Marie Tribe of Chippewa Indians that was negotiated by Governor John Engler and amended by Governor Jennifer Granholm.

It provides for alternative reservation land being placed in trust for the Sault Tribe in the City of Romulus. More than 2,700 on-site jobs will be created from the casino gaming business that is developed by the Tribe due to this settlement agreement. Another 1,400 or more will come from the construction project to build the facility.

With Michigan currently leading the nation with the highest unemployment rate at 7.6% (December, 2007 - U.S. Bureau of Labor Statistics), it is critical that new employment opportunities are created to replace the recent loss of nearly 250,000 manufacturing jobs in the state.

The Sault Tribe and the Michigan Building Trades have had a good working relationship on previous projects, including Detroit's Greektown Casino, of which the tribe is majority owner. We look forward to this partnership continuing at the Romulus facility given our recent negotiations with the Tribe.

We strongly support approval of H.R. 4115 because it will provide thousands of employment opportunities in Southeastern Michigan for working families.

Sincerely,

Patrick J. Devlin
CEO

Patrick F. Gleason
President

cc: Congressman John D. Dingell
Congressman Bart Stupak

BUILDING MICHIGAN UNION

[A letter submitted for the record by The Honorable Jennifer Granholm, Governor, State of Michigan, follows:]

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

JOHN D. CHERRY, JR.
LT. GOVERNOR

November 14, 2007

The Honorable Nick Rahall
Chairman
Committee on Resources
United States House of Representatives
Washington, D.C., 20515

The Honorable Don Young
Ranking Member
Committee on Resources
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Rahall and Ranking Member Young:

I understand that you now have under consideration H.R. 4115, a bill introduced by Congressman John Dingell that would approve a Settlement Agreement entered into in December 2002 by the state of Michigan and the Sault Ste. Marie Tribe of Chippewa Indians. I write to advise you and the members of the House Resources Committee that the State and the Sault Tribe have today concluded a written Addendum modifying that 2002 Settlement Agreement. A copy of that Addendum is attached for your review together with a copy of the original 2002 Settlement Agreement. I strongly encourage you to support H.R. 4115 provided that it approves the Settlement Agreement as modified by the enclosed Addendum.

The 2002 Settlement Agreement was intended to resolve a long-standing land claim dispute concerning ownership of lands located near Charlotte Beach in the eastern Upper Peninsula of Michigan. Because the settlement involves resolution of Indian land claims, it is subject by its terms to approval by Congress.

Paragraph 10 of the Settlement Agreement contemplated future amendments provided that the amendments are in writing, signed by the Governor, and approved by a Resolution of the Tribe's Board of Directors. The Addendum signed today meets these prerequisites and modifies the original Settlement Agreement in ways mutually beneficial to both the State and the Tribe. As now amended, the Settlement Agreement will:

- settle the Sault Tribe's unresolved land claims against the Charlotte Beach landowners will be lifted;
- enable the Tribe to take land in trust, which is smaller in size, but potentially profitable and beneficial to the tribal members;

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www.michigan.gov

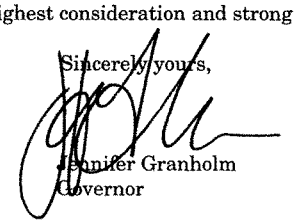
The Honorable Nick Rahall and The Honorable Don Young
November 14, 2007
Page Two

- provide an estimated $30 to $40 million per year in new revenues to the State at a time when budget constraints are affecting the state's ability to deliver services;
- provide positive incentives to encourage the State and the Tribe to work cooperatively toward the long-term economic success of the Tribe's venture.

As you are aware, I signed a substantially similar agreement yesterday with the Bay Mills Indian Community modifying a closely related 2002 Settlement Agreement between the State and Bay Mills involving the identical land claims. The federal courts have held that both the Bay Mills Tribe and the Sault Tribe trace their ancestry to the two Chippewa bands named in the deed to the disputed Charlotte Beach lands and that both Tribes, accordingly, share in any potential claim based on those lands; both tribes are necessary parties in any effort to conclusively resolve those claims. See, *Bay Mill Indian Community v. Western United Life Assur. Co.*, 208 F.3d 212 (Table); 2000 WL 282455 (unpublished) (CA6, 2000). Accordingly, in order to adequately protect the legal interests of the State and its citizens, it is vital that the Congress act to approve both of these amended settlement agreements, allowing these claims be resolved fully and finally.

Approval of this Settlement, as now amended, will resolve outstanding land claims potentially affecting 200 families in the eastern Upper Peninsula, provide thousands of new jobs, provide revenue sources to assist the Sault Tribe in its efforts to become economically self-sufficient, and provide much needed funds to state and local governments. For these reasons, I encourage you to give approval of this amended Settlement Agreement your highest consideration and strong support.

Sincerely yours,



Jennifer Granholm
Governor

c: Representative John Dingell
Representative Dale Kildee
Representative Bart Stupak
Senator Carl Levin
Senator Debbie Stabenow

[NOTE: Additional letters and an addendum submitted for the record by Governor Granholm have been retained in the Committee's official files.]

[A letter submitted for the record by Shaun S. Groden, County Administrator/Controller, County of St. Clair, Michigan, follows:]

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VISION: We are the leader in innovative, customer-centered government.

MISSION: To continually improve public services that enhance the community for citizens and future generations of St. Clair County.

Jan 31st, 2008

The Honorable Nick J. Rahall, II - Chairman
House Committee on Natural Resources
1324 Longworth HOB
Washington, DC 20515-4803

Sent via fax to: Clerk of the Committee
Ms. Cynthia Freeman
202-225-7094
Cynthia.freeman@mail.house.gov
Original to follow

Re: HR 2176 – Port Huron, Michigan

Dear Mr. Rahall,

On behalf of the Citizens of Port Huron and St. Clair County, Michigan I respectfully submit this letter of support for the above referenced project which shall come before your committee. In addition, I ask that this letter be read into the record and ultimately become part of the official transcript.

As you may know, the Citizens of Port Huron passed a voter referendum to establish a Casino. However, due to fear of competition from other casinos, final action has not taken place. At this time, it is my understanding that testimony will take place at your committee. For that reason, I send to you a synopsis of the defining reasons this vote must be made and an affirmation of support must be given to our community:

a) The previous Governor and current Governor of the State have each endorsed this development. Each recognized the competitive imbalance that exists due to the fact that just across the Canadian border (one-quarter mile away from Port Huron) are established casino and racino facilities. Many people cross the border in order to visit them. Therefore, Port Huron has an established economic disadvantage that this proposal can rectify.

b) All three of our community's federal legislators also support this initiative. Each of these veteran members of Congress agrees that the community needs the opportunity that the proposal provides.
c) The current unemployment rate for the City of Port Huron is approximately fifteen (15%) percent. The estimated jobs that this project will produce are critical to the economic vitality of our community.
d) A more troubling statistic that provides further explanation of our community's dire economic condition is home ownership. It has been estimated by multiple sources that Port Huron rate of owner-occupied dwellings is less than forty (40%) percent of all housing stock.
e) In general terms, the State of Michigan is suffering from the impact that the auto industry is currently facing. Indeed, within the past year, Port Huron and the County of St Clair have lost thousands of jobs to plant closings and down sizing and/or consolidation. It is absolutely imperative that we undertake a shift in the employment centers in our community. This application provides such a shift.
f) It is our understanding, that all border crossings in the State have equal footing or equal development of casinos on each side of the border: with the exception of Port Huron. How can this occur? How is it, our Legislators can not correct this error?
g) It has been reported that other competitors in the region object to this development. Yet, Detroit casinos are at least ninety minutes to two hours from our City. Northern Casinos are three to four hours away. Yet they offer no concrete evidence to support their claim. At last reporting, every casino in the State was reporting annual profits: some with record numbers.

Finally, as the County Administrator for St Clair, I often reach out to our Legislators for assistance; for financial support that must be found within their budget. This request seeks no such financial support. We only seek the tools to redevelop our own community. We ask that the Natural Resources Committee approve HR 2176. We ask that you help us - help ourselves.

Respectfully submitted,

Shaun S. Groden
County Administrator/Controller

[A statement submitted for the record by The Honorable Robert Kewaygoshkum, Tribal Chairman, The Grand Traverse Band of Ottawa and Chippewa Indians, follows:]

Statement of Robert Kewaygoshkum, Councilor and Chairman, Grand Traverse Band of Ottawa and Chippewa Indians

I. Summary.

My name is Robert Kewaygoshkum and I am the Tribal Chairman and elected member of the Grand Traverse Band Tribal Council. I have served as Chairman since 2000. I would like to express my sincere appreciation for the opportunity to testify again on this matter on behalf of the Grand Traverse Band of Ottawa and Chippewa Indians and the Grand Traverse Band Tribal Council. [1]

Mr. Chairman and members of this Committee, the Grand Traverse Band of Ottawa and Chippewa Indians opposes the enactment of both bills—H.R. 2176, to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community, and H.R. 4115, to provide for and approve the settlement of certain land claims of the Sault Ste. Marie Tribe of Chippewa Indians.

[1] Hereinafter "Grand Traverse Band" or "GTB."

Although the Grand Traverse Band and the Bay Mills Indian Community[2] and the Sault Ste. Marie Tribe of Chippewa Indians[3] have worked together for decades, striving for a sound and reasonable Federal Indian policy, we cannot stand beside our friends in this matter. If enacted, H.R. 2176 and H.R. 4115 would set an unhealthy precedent for Federal Indian fee-to-trust acquisition policy. They would unnaturally expand exceptions to the general prohibition against Indian gaming on lands acquired after October 17, 1988. They would promote inconsistent Congressional policy. And, they would violate an important agreement of the Indian Tribes in Michigan.

The Grand Traverse Band does not generally oppose the attempts by Bay Mills or Sault Ste. Marie to improve the economic situation of their people. Nor do we oppose any attempt to establish a legally valid land claim to the Charlotte Beach properties.

What the Grand Traverse Band opposes is the effect H.R. 2176 and H.R. 4115 would have upon Congressional policy and Federal Indian policy in the context of the Indian Reorganization Act and the Indian Gaming Regulatory Act; and we vehemently oppose any Port Huron and Romulus tribal casino projects that attempt to circumvent Section 9 of the 1993 Compact between the State of Michigan and the seven Michigan Indian Tribes requiring revenue sharing in the event a Michigan Tribe commences gaming in accordance with 25 U.S.C. § 2719(b)(1)(A).

II. Interest of the Grand Traverse Band

Bay Mills, Sault Ste. Marie and the Grand Traverse Band are among the legal successor signatories to the 1836 Treaty of Washington[4] and the 1855 Treaty of Detroit.[5] In the 1836 treaty, the Grand Traverse Band, Bay Mills, and several other Ottawa and Chippewa bands ceded vast amounts of territory in the eastern half of the Upper Peninsula and the northwest third of the Lower Peninsula of the State of Michigan to the federal government in exchange for reservation lands on or near our respective traditional territories. The 1855 treaty set aside parcels of land for the establishment of additional reservations for the Grand Traverse Band and the other bands.

Bay Mills, Sault Ste. Marie, and my Tribe, the Grand Traverse Band, each operates gaming facilities in our respective Reservation communities. One of GTB's two facilities is located on land determined to have been restored to our Tribe as part of our restoration process. That Williamsburg facility, known as Turtle Creek, was the subject of Grand Traverse Band of Ottawa and Chippewa Indians v. United States Attorney for the Western District & State of Michigan, decided on April 22, 2002.[6]

The Grand Traverse Band is very interested in establishing and maintaining a sound Federal Indian policy where the Federal Government and Indian Tribes work together to preserve Tribal cultures, Tribal lands, Tribal economic security, and stable Tribal governments.

The two bills that are the subject of today's hearing attempt to circumvent a very important promise made by seven Michigan Tribes, including Bay Mills, Sault Ste. Marie and the Grand Traverse Band, when they entered into their IGRA Gaming Compacts with the State of Michigan in 1993. At that time, each of our seven Tribes pledged, not only to the State, but to each other, that we would not engage in economic warfare over gaming. Each Tribe agreed that it would pursue proposals to establish casinos far removed from its traditional territory only if it had first reached a revenue-sharing agreement with the other six Tribes.

This inter-tribal agreement was critical to each Tribe's survival, because proposals to game far off-reservation in the more populous parts of the State posed then and pose today the real potential to choke off the revenues of casinos closer to home that the Tribes rely upon to fund essential governmental programs and for employment. H.R. 2176, as proposed by Bay Mills, and H.R. 4115, as proposed by Sault Ste. Marie, brazenly violate that promise. Rather than honoring their Compact pledge, Bay Mills and Sault Ste. Marie have asked the federal Congress to impose federal legislation—based on a land claim that has never been proven—that would excuse them from complying with their inter-Tribal promises and would instead favor them

[2] Hereinafter "Bay Mills" or "BMIC."

[3] Hereinafter "Sault Ste. Marie" or SSMTCI."

[4] 7 Stat. 491 (Mar. 28, 1836). The federally recognized signatories to the 1836 treaty were the Grand Traverse Band, Bay Mills, the Sault Ste. Marie Tribe of Chippewa Indians of Michigan, the Little River Band of Ottawa Indians, Michigan, and the Little Traverse Bay Bands of Odawa Indians.

[5] 11 Stat. 621 (Jul. 31, 1855).

[6] 198 F. Supp. 2d 920, 925 (W.D. Mich. 2002).

to the great detriment of others, all in violation of the Federal trust responsibility to act with the interests of all Tribes in mind.

These two bills would bypass the courts and force upon the local communities, Indian and non-Indian alike, remedies with all kinds of ramifications, both intended and perhaps, unintended. Chief among these would be Congress's validation of the effort by Bay Mills and Sault Ste. Marie to evade the promise made in their IGRA gaming compacts that they would not pursue casino proposals far off-reservation without first taking into account the interests of other Michigan Tribes.

III. H.R. 2176 and H.R. 4115 Attempt to Circumvent the Promise Made By Bay Mills and Sault Ste. Marie to Other Michigan Tribes Under Section 9 of the Tribal-State IGRA Compacts.

The tribal-state IGRA gaming compacts negotiated in 1993 between seven Michigan Tribes, including Bay Mills, Sault Ste. Marie, Grand Traverse and the State, contain an identical provision, Section 9, which declares as follows:

> An application to take land in trust for gaming purposes pursuant to § 20 of IGRA (25 U.S.C. § 2719) shall not be submitted to the Secretary of the Interior in the absence of a prior written agreement between the Tribe and the State's other federally recognized Indian Tribes that provides for each of the other Tribes to share in the revenue of the off-reservation gaming facility that is the subject of the § 20 application.

See, e.g., A Compact Between the Bay Mills Indian Community and the State of Michigan, § 9 (emphasis added).

The meaning of, and intent behind Section 9, are clear. At the time that the 1993 Compacts were negotiated, each of the seven signatory Tribes was operating casinos within its traditional territory. Under IGRA and the Compacts, each Tribe could continue to operate those casinos in separate, independent efforts to foster tribal self governance and economic development. Furthermore, pursuant to the three section 2719(b)(1)(B) exceptions described above, each of the Tribes could develop additional IGRA-governed gaming facilities within its traditional territory. However, if any Tribe sought to take land into trust for gaming purposes outside of its traditional territories, each Tribe agreed that it first had to work out revenue sharing agreements with the other Tribes. In this way, the Michigan Tribes pledged not to engage in a form of economic warfare that would ultimately injure all of them. They promised not to engage in an endless game of attempting to leapfrog over one another in moving closer to major population centers while cutting off revenues to their less aggressive brethren. Only when they had worked out cooperative arrangements among themselves would the Michigan Tribes then attempt to secure the approval of the Secretary of the Interior, and the concurrence of the Governor, for far-reaching off-reservation gaming proposals under Section 20 of IGRA.

Shortly after the 1993 Compacts were finalized, the Michigan Tribes demonstrated their understanding of how Section 9 of the Compacts was intended to work. The Tribes worked cooperatively on a proposal to take land into trust for gaming under IGRA in the City of Detroit. They crafted an appropriate revenue-sharing agreement, and only because then Governor Engler, at the last minute, withdrew his support for the proposal, did the collaborative effort not come to fruition.[7]

By contrast, the legislation being advanced by Bay Mills and Sault Ste. Marie would establish IGRA-authorized gaming operations far from the traditional territories of those two Tribes without involving the other Michigan Tribes and without any regard for their well-being. H.R. 2176 and H.R. 4115 are nothing more than an obvious attempt to circumvent Section 9 of the 1993 IGRA Compacts and the protection Section 9 offers other Tribal signatories.

Bay Mills and Sault Ste. Marie seek to establish casinos in a part of the State far removed from their traditional territories in violation of their pledge to first work out a revenue sharing arrangement with other Tribes. Under normal circumstances, these proposals would fall squarely within Section 2719(b)(1)(A) of IGRA—the Tribes would have to convince both the Secretary of the Interior and the Governor that gaming proposals should move forward. However, because an application under Section 2719(b)(1)(A) would trigger the revenue-sharing requirements of Section 9, and because they seek to get a free pass from the Congress to avoid the revenue sharing and governmental cooperation underpinning that Compact provision, Bay Mills and Sault Ste. Marie have brazenly sought to characterize their land-grab efforts in southern Michigan as involving the settlement of a land claim in the Upper Peninsula. As detailed above, however, the validity of their land claims

[7] After the tribal IGRA deal was blocked, the State issued licenses for three commercial (non-IGRA) casinos in Detroit. All operate under authority of state law and not the federal Indian Gaming Regulatory Act although one of the owner-operators is the Sault Ste. Marie Tribe.

in Chippewa County has never been established. Moreover, no court of law has ever construed the "settlement of a land claim" provision in IGRA to authorize Tribes to establish casinos far removed from the traditional territory subject to the land claim being settled as is here proposed by Bay Mills and Sault Ste. Marie, even assuming the existence of a valid claim.

IV. Overview of H.R. 2176 and H.R. 4115

H.R. 2176 contains a legislative remedy provision for a single Michigan Indian Tribe—the Bay Mills Indian Community. Likewise, H.R. 4115 contains a legislative remedy provision for another Michigan Indian Tribe—the Sault Ste. Marie Tribe. Each involves what amounts to a significant amendment to both the Indian Gaming Regulatory Act[8] and the Indian Reorganization Act,[9] as well as a deviation from Federal Indian gaming and Indian land policy. As both IGRA and the IRA have had profound and wide-ranging impacts on Indian Tribes throughout the United States, Congressional divergence from the public policy behind these influential and fundamental statutes must be carefully and strictly scrutinized by both Indian Tribes nationwide and by Congress.

H.R. 2176 would ratify an agreement between the Bay Mills Indian Community and the State of Michigan to settle a land claim by Bay Mills to property on or near Charlotte Beach in Chippewa County, Michigan in the Upper Peninsula.[10] Likewise, H.R. 4115 would similarly ratify an agreement between Sault Ste. Marie and the State of Michigan. These two Tribes are asking Congress to ratify settlement agreements that provide an unprecedented remedy to purported Indian land claim—instead of paying monetary damages for trespass or providing land on or near Charlotte Beach, the State would give up land far from the Bay Mills and Sault Ste. Marie reservations and treat that land as part of the settlement of a land claim in accordance with IGRA's exceptions to gaming on lands acquired after the passage of the statute in 1988.[11] Unlike previous land claim settlement acts, Congress is not a party to the negotiations to the Settlement Agreement underlying H.R. 2176 and H.R. 4115. Congress did not and cannot negotiate the terms of H.R. 2176 and H.R. 4115—Congress may only ratify the Settlement Agreement hashed out between Bay Mills and the State of Michigan and between Sault Ste. Marie and the State of Michigan.

The Grand Traverse Band believes the land claim settlement exception in § 2719(b)(1)(B)(i) should be applied only where federal or state liability or potential liability is well established. That way, Congress is an active negotiator in the terms of the settlement and not simply a ratifying body of settlement agreements over which Congress has no control because no federal liability has been found.

V. Enactment of H.R. 2176 and H.R. 4115 Would Violate Federal Indian Policy.

A. H.R. 2176 and H.R. 4115 Would Allow Gaming on Lands Acquired After October 17, 1988 Approximately 350 Miles from the Bay Mills Reservation and approximately 355 miles from the Sault Ste. Marie Reservation.

H.R. 2176 and H.R. 4115 would ratify agreements between the State of Michigan and the Bay Mills Indian Community and the Sault Ste. Marie Tribe. The Bay Mills agreement would allow the Bay Mills to acquire from the State of Michigan land in the City of Port Huron, Michigan, near Detroit, to be held in trust by the Secretary of Interior, with the concomitant tribal civil adjudicatory and regulatory jurisdiction, as well as tribal criminal jurisdiction, provided for by applicable Federal and Tribal law.[12] Port Huron is approximately 125 miles from the nearest boundary of the lands ceded in the Treaty of 1836 that both the Grand Traverse Band and Bay Mills signed. Furthermore, the Port Huron parcel is approximately 350 miles from the Bay Mills Reservation in the Upper Peninsula of Michigan. Similarly, the Sault Ste. Marie agreement would allow the Sault Ste. Marie Tribe to acquire from the State of Michigan land in the City of Romulus, Michigan, near Detroit, to be held in trust by the Secretary of Interior, with the concomitant tribal civil adjudicatory and regulatory jurisdiction, as well as tribal criminal jurisdiction, provided for

[8] Pub. L. 100-497 (Oct. 17, 1988), 102 Stat. 2467, codified at 25 U.S.C. § 2710, et seq. (hereinafter "IGRA").

[9] Act of June 18, 1934, c. 576, 48 Stat. 984, codified at 25 U.S.C. § 461, et seq. (hereinafter "IRA").

[10] Hereinafter the "Settlement Agreement."

[11] See S. 2986 § 3(b)(2); Settlement Agreement, at 2.

[12] See Bay Mills Settlement Agreement, at 3.

by applicable Federal and Tribal law.[13] Romulus is approximately 125 miles from the nearest boundary of the lands ceded in the Treaty of 1836 that both the Grand Traverse Band and Sault Ste. Marie signed. Furthermore, the Romulus parcel is approximately 350 miles from Sault Ste. Marie lands in the Upper Peninsula of Michigan.

Dicta from federal cases suggests strongly that Congress intended for geographic limitations on the three exceptions to the general prohibition against gaming on after-acquired property in § 2719(b)(1)(B). In TOMAC v. Norton,[14] District Court Judge Robertson noted that the Pokagon Band of Potawatomi Indians' attempt to have land put into trust in accordance with the restored lands exception was justified in part because the land they wished to game upon was within the Band's traditional territory and complied with inherent "geographic and policy limits" of the IRA and IGRA.[15] Additionally, in Sac and Fox Nation v. Norton,[16] the Tenth Circuit adopted a limited definition of the term "reservation" to mean "...any land reserved from an Indian cession to the federal government...."[17]

Congress could not have imagined that an Indian Tribe would settle a land claim with a state defendant in exchange for the right to game on lands far from the boundaries of the Tribe's reservation or territory. A review of the extensive Senate Report accompanying IGRA indicates that Congress did not opine on the possibility that Indian Tribes would establish gaming facilities substantially far from their own reservations or traditional territories.[18]

The Grand Traverse Band's gaming facilities are situated well within the traditional territory of the Band. The Peshawbestown facility, Leelanau Sands, is located in the heart of the 1855 treaty reservation near the center of the Band's modern government operations in Peshawbestown, Michigan. The Turtle Creek site is well within the Band's traditional territory near the exterior boundaries of the 1836 treaty reservation. In the Turtle Creek decision, Senior District Judge Douglas W. Hillman found that the Turtle Creek site is located "at the heart of the region that comprised the core of the Band's aboriginal territory and was historically important to the economy and culture of the Band."[19] Moreover, Judge Hillman found that Grand Traverse Band members "occupied the region continuously from at least 100 years before treaty times to the present."[20] Finally, Judge Hillman found that the Turtle Creek site "was located within the contemplated reservation, which was not designated for four years after the treaty was signed."[21] Therefore, Turtle Creek was subject to the § 2719(b)(1)(B) exceptions.

Unlike the Grand Traverse Band, which has proven in federal court that its off-reservation gaming facility was within the Band's traditional and historical territory, neither Bay Mills nor Sault Ste. Marie Tribe has shown any traditional or historical connection in any land near Port Huron or Romulus. Port Huron and Romulus are far beyond the 1836 ceded territory and none of the current five federally recognized signatories to that treaty had significant traditional or historical connections to that part of the state. We believe that Congress intended the settlement of a land claim exception in § 2719(b)(1)(B)(i) to only include lands where the beneficiary Tribe has a historical connection, unlike § 2719(b)(1)(A), which expressly provides for a comprehensive procedure for such gaming, including consultation with other affected state and tribal parties and independent determinations by the Secretary of Interior with the concurrence of the state governor in compliance with the law of that state.[22]

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[13] See Sault Ste. Marie Settlement Agreement, at 3.

[14] 193 F. Supp. 2d 182 (D. D.C. 2002).

[15] Id. at 186 & 192 (citing South Dakota, 69 F. 3d at 882-83 & n.3).

[16] 240 F. 3d 1250 (10th Cir. 2001), cert. denied, Wyandotte Nation v. Sac and Fox Nation of Missouri, 122 S. Ct. 807 (2002).

[17] 240 F. 3d at 1266 (quoting Felix F. Cohen's Handbook of Federal Indian Law 34 (2nd ed. 1982)) (emphasis added).

[18] See generally S. Rep. 100-446 (Aug. 3, 1988).

[19] Grand Traverse Band of Ottawa and Chippewa Indians v. U.S. Attorney, 198 F. Supp. 2d 920, 925 (W.D. Mich. 2002) (citations omitted).

[20] Id. (citation omitted).

[21] Id. (citations omitted).

[22] The Grand Traverse Band participated in an effort to bring Class III gaming to Detroit, Michigan in the mid-1990s in accordance with § 2719(b)(1)(A). This participation was only made after the Band rescinded its previously enacted Resolutions opposing gaming outside the traditional and historic areas of Indian tribes and only after the repeated solicitations and negotiations on a revenue sharing agreement in compliance with Section 9 of the Tribal State Compact signed by all (then seven) Michigan Tribes. The Grand Traverse Band decided at that time to make the attempt to commence gaming in Detroit only because of the revenue sharing protections offered all the Michigan Tribes under Section 9. The Band entered into consultation with

B. H.R. 2176 and H.R. 4115 Create a Remedy for the Bay Mills Indian Community and for Sault Ste. Marie Tribe By Purporting to Settle a Land Claim that Has Never Established Federal Government Liability in Any Court of Law

H.R. 2176 and H.R. 4115 would ratify a land claim settlement where the underlying land claim has never been proven to be valid. In both state and federal court, the Bay Mills Indian Community and the Sault Ste. Marie Tribe have attempted to establish a valid land claim to the Charlotte Beach property.[23] The essence of land claim is that the federal government issued patents to tribal land on or near Charlotte Beach to a non-Indian prior to the Congressional ratification of the 1855 treaty.[24] Bay Mills and, by extension, Sault Ste. Marie, claim that the land, which was eventually lost to county property tax foreclosure, remained in trust and should never have been subject to state or local taxes.[25]

To this point, however, each of the attempts to establish a land claim have failed to affirmatively establish a land claim. For example, in Bay Mills Indian Community v. Court of Claims, State of Michigan, a case decided in the Michigan state courts and to which the United States Supreme Court recently denied certiorari, the Michigan Court of Appeals held that Bay Mills did not establish a prima facie case that the State of Michigan and federal government violated the Non-Intercourse Act.[26] The same court also found that the land at issue was properly subject to county property taxes because the federal government intended for the land to be alienable when it issued the patents.[27] The federal court litigation, entitled Bay Mills Indian Community v. Western United Life Assurance Co., also failed to establish a land claim as it was dismissed for the refusal of the Sault Ste. Marie Tribe of Chippewa Indians of Michigan to waive its sovereign immunity and participate in the litigation.[28] As such, the liability of the State of Michigan or the federal government has never been established.

The State of Michigan has embraced a foolish position in its decision to settle the Charlotte Beach land claims on the unfounded basis that they negatively impact land values and the collection of real property taxes by local units of government. So far, these land claims to Charlotte Beach have all been rejected for the purposes of establishing federal liability. Put another way, the State and these two Indian Tribes are asking the Congress to ratify a land claim settlement agreement in which no court has validated the underlying claim.

C. H.R. 2176 and H.R. 4115 Constitute an Undisciplined Expansion of the Indian Reorganization Act's Geographic Limitations Upon Fee-to-Trust Transfers.

In the modern era, when Congress recognized Indian Tribes, it would limit the Secretary's discretion to accept land into trust to lands within the Indian Tribe's service area having some rational, factual link to where tribal members lived and worked. Examples from the past several years include the Auburn Indian Restoration Act,[29] the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act,[30] the Paskenta Band of Nomlaki Indians of California Act,[31] and the Graton Rancheria Restoration Act.[32] H.R. 2176 and H.R. 4115 would reverse the disciplined policy Congress has followed for a decade of limiting mandatory fee-to-trust acquisitions to lands acquired within a Tribe's service area,

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the proper parties and followed the comprehensive procedure contained in that exception, only to be denied concurrence by the governor of the State of Michigan.

[23] See Bay Mills Indian Community v. Western United Life Assurance Co., No. 2:96-CV-275, 26 Indian L. Rep. 3039 (W.D. Mich., Dec. 11, 1998), aff'd, 208 F. 3d 212, 2000 WL 282455 (6th Cir., Mar. 8, 2000)); Bay Mills Indian Community v. Court of Claims, State of Michigan, 244 Mich. App. 739, 626 N.W. 2d 739 (2001), cert. denied, 122 S. Ct. 1303 (2002).

[24] See 626 N.W.2d at 172.

[25] See id.

[26] See id. at 173-174.

[27] See id. at 172-73 (citing Cass Co., Minnesota v. Leech Lake Band of Chippewa Indians, 524 U.S. 103 (1998)).

[28] See 26 Indian L. Rep. at 3041-42 (finding the Sault Tribe indispensable to further proceedings in the Charlotte Beach land claims litigation).

[29] 25 U.S.C. § 1300l-2(a) ("The Secretary may accept any additional acreage in the Tribe's service area pursuant to the authority of the Secretary under [25 U.S.C. § 465].").

[30] 25 U.S.C. § 1300k-4(a) ("The Secretary may accept any additional acreage in each of the Bands' service area—pursuant to the authority of the Secretary under [25 U.S.C. § 465].").

[31] 25 U.S.C. § 1300m-3 ("The Secretary may accept any additional acreage in each of the Bands' service area—pursuant to the authority of the Secretary under [25 U.S.C. § 465].").

[32] 25 U.S.C. § 1300n-3 ("Upon application by the Tribe, the Secretary shall accept into trust for the benefit of the Tribe any real property located in Marin or Sonoma County, California, for the benefit of the Tribe after the property is conveyed or otherwise transferred to the Secretary and if, at the time of such conveyance or transfer, there are no adverse legal claims to such property, including outstanding liens, mortgages, or taxes.").

which in those instances closely corresponds with the Tribe's historic area. Neither Sault Ste. Marie nor Bay Mills' traditional territory and service area extends to St. Clair County—nor does it extend to any other county within approximately 200 miles of St. Clair County.

Bay Mills has no governmental authority in the area near Port Huron. Likewise, the Sault Ste. Marie Tribe has no governmental authority near Romulus. Under H.R. 2176 and H.R. 4115, Bay Mills and Sault Ste. Marie would begin exerting jurisdiction over lands far from their own homeland and on lands directly within the jurisdiction of the State of Michigan, the City of Port Huron, and St. Clair County and the City of Romulus.

D. H.R. 2176 and H.R. 4115 Set a Precedent Where Any Non-Federal Defendant to an Indian Land Claim Could Settle the Claim With an Indian Tribe Even Where No Federal Liability Is Proven and Utilize the Land Claim Settlement Exception in Sham Transactions.

Allowing Bay Mills, Sault Ste. Marie and the State of Michigan to invoke a federal remedy for an Indian land claim in which there is no federal or state liability establishes an unprincipled precedent. The states are no more than outside parties to IGRA's land claim settlement exception. Congress could not have intended otherwise. If Congress ratifies the Settlement Agreement, then any party—states, counties, local landowners—could settle a land claim of dubious validity with an Indian Tribe and demand to enjoy the benefits of the land claim settlement exception. Large non-Indian gaming interests could see fit to acquire property with the cloud of potential Indian land claims, settle the claim with the Tribe, and then strike a deal with the Tribe to invoke the land claim settlement exception to IGRA's general prohibition. These two bills could trigger a flood of similar ' Indian "land claims". Exactly how do the Members of Congress who are proposing H.R. 2176 and H.R. 4115 intend to say no to them after pushing through these bills?

E. H.R. 2176 and H.R. 4115 are Inconsistent With Past Congressional Treatment of the Bay Mills Indian Community and Sault Ste. Marie Tribe Reservations.

Congress created the Bay Mills reservation with its current geographic limitations in 1860 by authorizing the purchase of nearly 800 acres of land owned by the Missionary Society of the Methodist Episcopal Church at Iroquois Point, Michigan.[33] Congress' purchase for the bands that would later become the Bay Mills Indian Community formed the core of the lands that constitute Bay Mills' traditional territory in the modern era. Congress has already spoken as to where Bay Mills must focus its efforts to establish a stable tribal government and provide for its membership. H.R. 2176 contemplates the reversal of a 142-year old Congressional policy decision to locate BMIC within its traditional territory.

Grand Traverse Band was recognized as an Indian Tribe on May 27, 1980 through the procedures now found at 25 CFR Part 83 and established a Tribal Constitution under the provisions of the Indian Reorganization Act of 1934. The territory of the Grand Traverse Band includes a five county service area in Northwest Michigan. The core of the Tribe is a 20,000 acre reservation on the "North Shore of Grand Traverse Bay" established by the 1836 Treaty and the several townships by the Treaty of 1855. The Tribe has trust land in each of the areas established by the Tribal Constitution, the 1836 Treaty and the 1855 Treaty.

The Sault Ste. Marie Tribe of Chippewa Indians was administratively recognized in 1972.[34] The core area, program service area, and traditional territory of the Tribe is located in the Upper Peninsula of Michigan.

VI. H.R. 2176 and H.R. 4115 Contravene Federal Indian Law and Create a Significant Expansion to the Exceptions to the General Prohibition on Indian Gaming on After-Acquired Lands

The policy enunciated by Congress in 1988 by the passage of IGRA would be undermined by the enactment of H.R. 2176 and H.R. 4115. IGRA provides a general prohibition of gaming on lands acquired after the passage of IGRA on October 17, 1988.[35] Generally, Congress contemplated that gaming on after-acquired lands must be located within or contiguous to the boundaries of a reservation of the Indian tribe.[36]

The Congressional policy behind the enactment of the IRA would also be undermined by the passage of H.R. 2176 and H.R. 4115. A major provision of the IRA, section 465, exists to replace lands lost by Indian Tribes, not to create a wholly arti-

[33] See Charles E. Cleland, Rites of Conquest 289 (1992) (citing 12 Stat. 44, 58 (1860)).
[34] See City of Sault Ste. Marie v. Andrus, 532 F. Supp. 157 (1980).
[35] See 25 U.S.C. § 2719.
[36] See 25 U.S.C. § 2719(a)(1).

ficial land base for Indian Tribes. The policy behind the Indian Reorganization Act was to alleviate the ravages of the Congressional allotment policy in 1934 and to "instruct" the Secretary that land should be acquired to replace the millions of acres of Indian land lost as a result of the allotment policy and placed in trust to prevent its alienation."[37] The policy to restore and replace the lands lost during the allotment era was codified most particularly in 25 U.S.C. § 465 and in Department of Interior regulations implementing § 465.[38] That policy was expressly stated in the regulations governing land acquisition:

> (a) Subject to the provisions contained in the acts of Congress which authorize land acquisitions, land may be acquired for a tribe in trust status: (1) when the property is located within the exterior boundaries of the tribe's reservation or adjacent thereto, or within a tribal consolidation area; or (2) when the tribe already owns an interest in the land; or (3) when the Secretary determines that the acquisition of the land is necessary to facilitate tribal self-determination, economic development, or Indian housing.[39]

For example, where an Indian Tribe asks the Secretary of Interior to take off-reservation lands into trust on behalf of that Tribe, the location of the land relative to the Tribe's boundaries is critical and, "as the distance between the tribe's reservation and the land to be acquired increases, the Secretary give[s] greater scrutiny to the tribe's justification of anticipated benefits from the acquisition."[40]

The intersection of the IRA and IGRA creates a sound and predictable public policy that requires Class III gaming to be conducted on or near Indian reservations and Indian Country. As noted above, following this policy prevents a situation where an Indian Tribe exerts jurisdictional authority in a small pocket of trust land far from the Tribe's traditional territory. For example, land taken into trust under the restored lands exception does not extend further than a few miles from the beneficiary tribe's traditional territory. Several recent federal cases, many of them involving Michigan Indian Tribes, highlight this geographic limitation in finding that gaming conducted on or near the reservation may be conducted in accordance with the exceptions to the general prohibition:

- In our own case, Grand Traverse Band of Ottawa and Chippewa Indians v. United States Attorney,[41] the district court for the Western District of Michigan held that our gaming facility located only 1.5 miles from the exterior boundaries of our 1836 treaty reservation constitutes land that is within the restored lands exception to IGRA.
- In TOMAC v. Norton,[42] the district court for the District of Columbia upheld an Interior decision to take a parcel into trust on behalf of the Pokagon Band of Potawatomi Indians of Michigan and Indiana that was located within the Band's traditional territory, specifically citing the "geographic and policy limits" inherent in both the IGRA and the IRA in the context of taking land into trust on behalf of Indian tribes.
- In Sault Ste. Marie Tribe of Chippewa Indians v. United States,[43] the Sixth Circuit upheld a decision by the Secretary of Interior to take into trust a parcel for gaming purposes on behalf of the Little Traverse Bay Bands of Odawa Indians. The land at issue is located within the Band's 1836 treaty reservation area.
- In Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians v. Babbitt,[44] the D.C. district court held that a parcel held in trust for gaming purposes that was contiguous to the Confederated Tribes' reservation enjoyed the benefits of the restored lands exception.
- In City of Roseville v. Norton,[45] the D.C. district court upheld a Department of Interior decision to take a parcel into trust for United Auburn Indian Community of the Auburn Rancheria of California under the restored land exception that was 40 miles from the boundary of its former rancheria, which had been terminated.

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[37] State of South Dakota v. United States Dept. of Interior, 69 F.3d 878, 887 (Murphy, C.J., dissenting), vacated by Department of Interior v. South Dakota, 519 U.S. 919, on remand to State of South Dakota v. United States Dept. of Interior, 106 F.3d 247 (8th Cir. 1996).

[38] See 25 C.F.R. Part 151.

[39] 25 C.F.R. § 151.3.

[40] 25 C.F.R. § 151.11(b).

[41] 198 F. Supp. 2d 920, 925 (W.D. Mich. 2002).

[42] 193 F. Supp. 2d 182, 186 & 192 (D. D.C. 2002) (citing South Dakota, 69 F. 3d at 882-83 & n.3).

[43] 288 F. 3d 910, 912-13 (6th Cir. 2002).

[44] 116 F. Supp. 2d 155, 157 (D. D.C. 2000).

[45] ——F. Supp. 2d——, 2002 WL 31027695, at *2 (D. D.C., Sept. 11, 2002).

Other federal cases finding that the proposed gaming initiatives do not comply with IGRA exemplify the geographic limitations Congressional policy has placed on Indian gaming:

- In Kansas v. United States,[46] the Tenth Circuit held that the National Indian Gaming Commission acted in an arbitrary and capricious manner by finding that the Miami Tribe of Oklahoma had authority to game on land within the State of Kansas, 180 miles from the tribe's reservation, for which the tribe had received payment in the 1960s settling its claim to the land. The Tenth Circuit found that the Miami Tribe did not have civil regulatory jurisdiction over the parcel and could not game on the land in compliance with IGRA.
- In Confederated Tribes of Siletz Indians of Oregon v. United States,[47] the Ninth Circuit found that the Confederated Tribes' attempt to have the Secretary of Interior to acquire land in trust for gaming purposes that was located 50 miles from the reservation could not happen without the concurrence of the governor of the State of Oregon in accordance with 25 U.S.C. § 2719(b)(1)(A).
- In Sac and Fox Nation v. Norton,[48] the Tenth Circuit ruled that Wyandotte Nation's effort to compel the Secretary of Interior to take land into trust for purposes of gaming in accordance with the adjacent lands exception (§ 2719(a)(1)), in part, because the property, located in Kansas City, Kansas, was located so far from the Wyandotte Nation in Oklahoma.

Congress did not intend for the land claims settlement exception to be exploited in the manner proposed in H.R. 2176 and H.R. 4115. The three exceptions contained in § 2719(b)(1)(B) should be read in the same context. The Grand Traverse Band opposes the dramatic expansion of the exceptions to the general prohibition against gaming on after-acquired lands.

VII. Conclusion and Suggestions for Future Action.

The Grand Traverse Band does not come before the House Natural Resources Committee with a bone to pick with the Bay Mills Indian Community or the Sault Ste. Marie Tribe of Chippewa. On numerous occasions, the Grand Traverse Band has stood side-by-side with Bay Mills and Sault Ste. Marie on issues of Federal Indian policy, including the U.S. v. Michigan litigation and when we stood together to preserve our fledgling gaming interests. We know better than any other Michigan Indian Tribe that Bay Mills and Sault Ste. Marie have been our fellow leaders in pursuing self-determination, self-governance and self-reliance for Indian Tribes nationwide. We also recognize that Bay Mills in particular is situated far from tourist routes and cannot benefit as some other tribes have from gaming on their reservation.

However, Grand Traverse and Bay Mills and Sault Ste. Marie differ on this one policy point—the land claim settlement exception to the general prohibition against gaming on after-acquired lands must be limited geographically. Sound historical and public policy reasons underlying both the Indian Reorganization Act and the Indian Gaming Regulatory Act compel the Grand Traverse Band to reach this conclusion.

The Grand Traverse Band cannot support H.R. 2176 and H.R. 4115 and urge defeat of these bills. Thank you for reviewing our testimony. If there are questions you believe we can answer, please do not hesitate to ask.

[A statement submitted for the record by Jacob Miklojcik, President, Michigan Consultants, follows:]

Statement of Jacob Miklojcik, President, Michigan Consultants

Mr. Chairman and committee members; I am speaking in support of H.R. 4115. The project will have significant beneficial impacts on the City of Romulus and all of Wayne County, including Detroit.

I am a graduate of Carnegie-Mellon University and the University of Michigan, and have been providing consulting services for over 25 years. My professionally involvement with casinos in Michigan began in 1993 when Michigan Consultants prepared the first analysis of the potential for casinos in Detroit. Since that time we have worked for many of the tribes in Michigan and for Detroit casino interests. Furthermore, our gaming analyses have been used for projects in over a dozen other

[46] 249 F. 3d 1213 (10th Cir. 2001), on remand to State of Kansas ex rel. Graves v. United States, No. 99-2341-GTV, 2002 WL 1461978 (D. Kan., Jun. 25, 2002).

[47] 110 F. 3d 688 (9th Cir.), cert. denied, 522 U.S. 1027 (1997).

[48] 240 F. 3d 1250, 1266-67 (10th Cir. 2001), cert. denied, Wyandotte Nation v. Sac and Fox Nation of Missouri, 122 S. Ct. 807 (2002).

states and in foreign countries. We are retained for private advice to a greater degree than public documents; therefore, I have had to prove the accuracy and integrity of my work to those investing hundreds of millions of dollars.

We were asked by the Sault Ste. Marie Tribe of Chippewa Indians to provide an updated market analysis for a casino in Romulus and to estimate economic impacts. All our analyses are based a highly detailed "bottom-up" model that carefully considers demand and supply and utilizes U.S. Census geocoding, mapping, survey data, and the experienced gained from over 60 past studies. To keep my testimony brief, allow me to enter into the record the key findings from our analysis of the proposed Romulus casino.

- Native American casino and hotel in Romulus, Michigan, near international airport, approximately 24 miles from Detroit.
- Capital investment of approximately $270 million; significant size, yet smaller than each of the new Detroit facilities.
- Employee estimates (full time equivalents)—
  - On-site 2,762
  - Indirect (vendors & other off-site) 551
  - Induced, ripple, effect from sequential spending 1,988
  - Total ongoing 5,301
  - Construction work years of 1,434 on-site.
- Estimated public revenues (full year) from Romulus casino:
  - State Compact payments—$33+ million.
  - Local Board compact payments—$6+ million.
  - Other payments to the State from northern Michigan operations will also begin.
  - Numerous other revenues from employee income taxes, excise taxes, taxes paid by vendors, fees, etc.
  - The tribe will work with local/county officials to address infrastructure costs.

The primary market components for the facility will be market growth and gaming dollars that otherwise will flow to other states, Ontario, other Native America facilities, and to Windsor, Ontario. Wayne County needs to compete with new casino competition near Battle Creek and (likely) Grand Rapids—unless responded to, this new competition will attract patrons from western Wayne other eastern Michigan counties.

Any impacts on Detroit casinos will represent only an insignificant part of their projected $1.6+ billion annual gaming market capture. The MGM operation, a facility and management I think extremely highly of, will have been serving loyal patrons for over ten years before the Romulus casino could open; plus Romulus is 24 miles away. **The jobs and new revenues captured within the county will far exceed any theoretic decline at Detroit casinos.** Of the thousands of jobs and contracts made possible, many will be filled by Detroiters. I am also impressed that the tribe is finalizing job growth and protection details with representatives of organized labor. Tribal officials have also shown a willingness to discuss all area impacts with local/regional officials.

Let me add that past work has involved many areas within economic development, housing, transportation, energy and human services. I have been involved in the successful siting of major automotive plants. Simply put, Michigan needs jobs and investment, we need to halt dollars from leaving our state and to attract dollars into our state. Few other feasible projects can begin investment as quickly and create as many good paying jobs as the two casino projects that would be made possible by the legislation before your committee.

Thank you for your time and consideration.

[The prepared statement of Congressman Dean Heller follows:]

Statement of The Honorable Dean Heller, a Representative in Congress from the State of Nevada

I want to begin by thanking the Chairman for agreeing to have a hearing on these bills and proceeding with regular order. As one of those who requested this procedure, I appreciate that consideration.

As we know, H.R. 2176 and H.R. 4115 would settle two Native American land claims in Michigan for tribes currently with claims in the northern portion of the state. Those two tribes want land taken into trust for gaming further south, about 300 miles away.

I have real concerns that these bills have significant negative effects on existing law already in need of reform. Off-reservation Indian gaming has become highly

controversial matter. These two bills sharply divide members of both parties in Michigan, divide local Native American tribes, and divide this committee and other Members of the House. Finally, these bills circumvent the existing procedure in place to approve of tribal gaming, and trample states' rights on this issue. For all of these reasons, they are bad bills and should be opposed.

Coming from Nevada, I obviously support gaming, including Michigan's right to have gaming, so its expansion isn't the issue. But the issue of off-reservation gaming is highly controversial and divisive for many communities, and what we do in this committee has clear, national repercussions.

Circumventing existing law on the matter, IGRA, has far-reaching consequences. And make no mistake—passing these bills is circumventing IGRA. The unprecedented congressional approval of off-reservation gaming will set off shockwaves across the nation and among tribes. Dozens of tribes with no gaming facilities will see this move as yet another green light to set up in nearly any economically viable location. Other tribes with gaming on historical land may want a new location for their facility in order to remain competitive.

The door to off-reservation gaming has been opening wider with each passing year, and these bills kick it open for a nationwide explosion of Indian casinos in nearly any location. Numerous states have already fought over this off-reservation matter. This Committee has done work to reform this law in the past, and should do so again, instead of continuing the status quo. IGRA is now 20 years old, and perhaps we should take a good look at it before passing these bills.

IGRA wisely allows for States to take the lead on these issues, for tribal-state compacts to be negotiated, and for the Department of the Interior and BIA to play proper oversight roles. These bills wipe all that away, without any close understanding of Michigan law. I would object to this committee trampling Nevada law, as I think most members would of their own states.

The Michigan delegation is deeply divided over this issue, and not along party lines. Why should we force something so divisive without more time to address it a without a closer understanding of state law? I understand House Judiciary Chairman Conyers says that Michigan law is being ignored on this matter.

Even the Tribes in Michigan are divided. I join the members of this committee who support the rights of Native Americans, including those rights under IGRA. Nevada has a number of casinos owned and operated in whole or part by tribes. But we are treating some differently than others by approving this "reservation shopping".

Additionally, the rights of the state of Michigan are clearly being circumvented as well. Michigan law is being trumped by the fact that we, here in this committee, are going to make law that should be set by the state, as already set forth in IGRA. Approving these bills is de facto approving the gaming compacts for Michigan—documents we haven't read or examined, and which have had little or no discussion.

I find that hard to swallow. Is this committee prepared to do the oversight needed to grant gaming compacts? Nevada has procedures in place to ensure high ethical standards are used when granting gaming licenses, and I assume Michigan does as well. Are we going to assume that responsibility, that liability, those efforts on this issue in place of the State of Michigan?

I urge the defeat of these bills because they are simply bad policy in so many ways, are controversial matters that have not been vetted appropriately, and they are divisive for tribes, our colleagues throughout Congress, and many of our constituents. Thank you.

[NOTE: The documents listed below have been retained in the Committee's official files.]

- 2002 Charlotte Beach, Chippewa County, Michigan, Land Claim Settlement Agreement.
- Treaty with Ottowa and Chippewa, 1855,
- Wolfram and Ikawa, "An Analysis of Proposed Indian Casino Gaming in Romulus" dated November 2003; Settlement Agreement between the Sault Ste. Marie Tribe of Chippewa Indians and the State of Michigan.

[A Legal History of the Sault Ste. Marie Tribe submitted for the record follows:]

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HAVE FEDERAL and STATE COURTS ADDRESSED THIS LAND CLAIM?

The short answer to the question is yes, a federal and state court have addressed this land claim, but neither have rejected the claim. Indeed, the federal court confirmed an important element of the Sault Tribe's claim.

In 1998, the United States District Court for the Western District of Michigan dismissed a quiet title action addressed to the Charlotte Beach claim brought by the Bay Mills Indian Community. The suit was filed against various land owners of the Charlotte Beach tracts and a title company insuring their titles. The District Court ruled that Bay Mills could not prosecute the quiet title action alone *because it was not the only tribe that had a claim to the Charlotte Beach properties.* Indeed, the Sault Tribe had the identical claim to the lands as did Bay Mills because the lands were withdrawn under the 1855 Treaty for the benefit, inter alia, of the Original Bands of Sault Ste. Marie Indians, and because the Paul deed to the Governor was for the benefit of the same Original Bands of Sault Ste. Marie Indians. Both the Bay Mills Indian Community and the Sault Ste. Marie Tribe of Chippewa Indians are modern-day political successors in interest to the Original Bands of Sault Ste. Marie Indians. ***Thus, the Sault Tribe was held to be an indispensable party to the lawsuit.*** Put another way, quieting title to the Charlotte Beach lands in the name of Bay Mills only would not have cleared title to those lands because Bay Mills shares the land claim with the Sault Tribe. The court concluded that in the Sault Tribe's absence, the lawsuit could not proceed, and since the Tribe enjoys sovereign immunity, it could not be forced to participate in the litigation without its consent.

The District Court's decision was affirmed by the United States Court of Appeals for the Sixth Circuit in a per curiam, unpublished opinion. *Bay Mills Indian Cmty. v. W. United Life Assurance Co.,* 208 F.3d 212 (6th Cir. 2000).

In the words of Governor Granholm, in her November 14 letter to Chairman Rahall and Ranking Member Young: "The federal courts have held that both the Bay Mills Tribe and the Sault Tribe trace their ancestry to the two Chippewa Bands named in the deed to the Charlotte Beach lands…"

At about this same time, Bay Mills initiated a lawsuit against the State of Michigan in its Court of Claims, claiming that it was entitled to money damages against the State because of the Governor's failure to keep the Charlotte Beach lands in trust for its benefit, consistent with the Paul deed in the 1880s. In addition, Bay Mills contended that it was entitled to money damages because of the State's action allowing the lands to be forfeited due to the failure to pay taxes on the property.

Although the Bay Mills' lawsuit against the State of Michigan in state court was rejected, it was not because that court concluded that there was no valid land claim. The Michigan Court of Appeals held that the State was not liable to Bay Mills for money damages primarily because the statute of limitations barred the claim. *Bay Mills Indian Cmty. v. Michigan*, 626 N.W.2d 169, 175-76 (Mich. Ct. App. 2001). To conclude that the State is not liable in money damages to Bay Mills is, of course, far different from concluding that Bay Mills had no valid claim to the Charlotte Beach lands.

Indeed, even though the State may not owe money to Bay Mills for what happened in the 1800s, that does not mean that both tribes (Bay Mills and the Sault Tribe) do not have claims to the lands. And, of course, the State case has no impact on the Tribes' claims against the United States for violating the 1855 Treaty provisions.

In summary, the state court addressed a different issue -- not the issue of whether the land claim was valid -- and the federal court, although not getting to the ultimate issue of whether title could be quieted in Bay Mills, did conclude that Bay Mills' quiet title action could not proceed in the Sault Tribe's absence because both tribes had the same claim to the Charlotte Beach lands.

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