

Written Testimony to the
Senate Committee on Indian Affairs
S. 2301 Native American Fish and Wildlife Resources Management Act
By Millard J. (Sonny) Myers - 1854 Authority

Mr. Chairman, members of the committee, my name is Sonny Myers, I am the Executive Director of the 1854 Authority in Minnesota. The 1854 Authority is an inter-Tribal Natural Resource Management organization which implements the off-reservation hunting, fishing and gathering rights of the Grand Portage and Bois Forte Bands of the Lake Superior Chippewa in the territory ceded in the Treaty of 1854. The 1854 Ceded Territory is approximately 5 million acres of resource rich land in what is now northeastern Minnesota.

I would like to thank the committee for the opportunity to comment on S. 2301, the Native American Fish and Wildlife Resources Management Act, and I would also like to acknowledge the committees fine work in drafting a bill which reflects prior testimony and commentary from the Tribes. I would like to address two issues of a general nature concerning the proposed legislation and then close with a few specific comments.

In our region, there are some reservations that have a relatively small land base, and thus there may be limitations on the amount of resources by which to carry on the time honored traditions of hunting, fishing and gathering that are important to the Band members. The reality is a significant portion of such activities is conducted on these ceded lands. In fact, the 1854 Authority was created by the two Bands to specifically provide a mechanism for tribes to exercise these off-reservation activities.

Additionally, not all Band members who are partakers to such reserved rights live on or in close proximity to the reservations. There are various reasons why such a scenario exists, some may live elsewhere for economic reasons, some may have left for educational opportunities, or some simply were raised in another area for reasons only their ancestors could answer. Such is the case for myself. For reasons unknown to me, my grandmother chose to

marry a non Band member and move 150 miles south of her home and raise her family. I and my family still live in the same location as this is our home (as do many Band members), yet thanks to my ancestors foresight in reserving the expansive boundaries of the ceded lands, the majority of our hunting, fishing and gathering activities are still conducted on ceded lands.

My main point in all this is to show that, at least in the case of our member reservations, when it comes to carrying on our ancestral traditions of hunting, fishing and gathering, a large portion of such activities is conducted on non-Tribal or ceded lands. In a recent survey we conducted of Band members, we asked them where they hunt, fish and gathered. 68 % indicated they fished in the ceded territory, 50% stated they hunted in the ceded territory, and 32% said they gather plants and other resources in the ceded territory. While I don't want to undermine the extent and importance of reservation lands when it comes to these activities, it is apparent that the resources on ceded lands have become invaluable, and as these are all shared resources, it is important to protect, preserve and enhance these resources and integrate Tribal concerns into the overall scheme of things.

As we deal exclusively with non-reservation ceded lands. One of our on-going struggles, but also avenues of success has been cooperation with state, federal, and other agencies in protecting, preserving and enhancing the resources in northeastern Minnesota for all people. Recognition of the Tribes rightful place among all the stakeholders in managing these resources is a constant challenge, yet great progress has been made. It is our hope that passage of this bill could significantly strengthen that position.

I understand that this very issue has come up among the non-Tribal public as they are concerned that the Tribes would gain management responsibilities in areas that they see as off-limits. I also understand that not all tribes have such clearly defined off-reservation rights as is the case with us. Yet it should be possible to draft the bill in such a way as to flesh out these concerns and ensure that where Tribes do have such clearly defined rights, efforts to “co-manage” are implemented.

A shining example of cooperative success is a Bureau of Indian Affairs program entitled Circle of Flight. Although this program has been slated for discontinuation the last couple of funding cycles and subsequently restored, it is a mechanism by which the Tribes in the Great Lakes region have been able to become players in natural resource management both on and off-reservation to the benefit of all people.

Since this programs inception in 1991, 7.9 million dollars has been distributed to 30 reservations and three inter-Tribal organizations for waterfowl and wetland enhancement projects. These dollars have leveraged an additional 20 million dollars in federal, state, private and tribal funding, yielding a match ratio of nearly 3 to 1. On the ground these projects have affected 200,000 acres of natural wild rice beds alone, which provides significant waterfowl feeding and nesting areas in the Great Lakes Region. Preservation of waterfowl producing habitat in the Great Lakes Region is important because of the habitat's contribution to the waterfowl resources of the Mississippi and Atlantic Flyways and the nation. Cooperation amongst all stakeholders can be accomplished to the benefit of all people and successful passage of this bill could greatly enhance this ability to other areas I am confident.

A little more local is the cooperative effort to manage moose in northeastern Minnesota. Each year, our member Bands, along with the Fond Du Lac band, and the State of Minnesota cooperate on conducting an annual survey to estimate the population and subsequently set harvest levels. This is an ongoing and essential component of moose management.

As with any resource, and especially when you are dealing with populations in a large area, there are always unanswered questions. Thus in the winter of 2002, the 1854 Authority, along with the Fond Du Lac Band, the Minnesota Department of Natural Resources, and the United States Geological Survey began a cooperative research project to learn more about this amazing animal and hopefully gain knowledge that will help to sustain populations in perpetuity. The moose has become our most popular subsistence animal (due to its relative ease to hunt and sheer volume and quality of food). The state administers a once in a lifetime hunt which draws 10,000 plus applicants a year for approximately 230 available permits. For the non-hunter, the

moose has become a north woods icon that is replicated through photography, carvings, stuffed animals, festivals, and more. We offer one of the limited amount of places in the nation where one can possible encounter a moose. My point here is the cooperative efforts of the federal, state, and tribal agencies will greatly benefit all who strive for an encounter with this amazing animal.

Finally, I would like to make several bulleted comments on the proposed legislation.

- The focus in the proposed legislation is on the department of Interior, but it should also strengthen the position of tribes' vis-a-vis the land management activities of other federal agencies that manage federal lands which are a part of a ceded territory in which treaty rights exist. For example, much of the Superior National Forest lies within the 1854 Ceded Territory. Should the US Forest Service be able to ignore treaty rights and resources in its forest management plans or should it have a statutory obligation to consider the ramifications its plans may have on those interests, much as it has an obligation to consider impacts on endangered species, water quality, historic sites, archeological resources and so on.
- The provisions of section 201(h)(1) of the bill will provide the level or awareness and scope of coordination necessary to involve tribes in management activities affecting treaty activities.
- The recognition of treaty rights in the bill should not be a basis for concern that tribal interests will be used to trump federal decision-making. Tribes believe that treaty rights cannot be ignored, not that treaty rights are the only interest to be considered when decisions are made.
- The proposed legislation is necessary because it expressly recognizes that Indian tribes must have a role in managing ceded territory fish and wildlife resources.

- The proposed legislation should make it clear that when it is determined that there is a treaty-based right to hunt, fish and gather on public lands within a ceded territory, then the United States has a trust responsibility to protect and preserve those treaty resources.
- Statutory acknowledgment of treaty rights is necessary because those rights are too often subordinated to the interests of others who have no treaty right but do have political influence.
- The 1854 Authority is sensitive to the concerns of others, but it must ensure that the quality and quantity of fish, game and traditional plants and access to them is not diminished because of land management practices that do not consider treaty rights.

Again, I would like to thank the committee for the work that has already been completed and also the opportunity to provide comment on this very important proposed legislation. We look forward to working with all to bring this to fruition.

End of Written Testimony.

Respectfully submitted by Millard J. (Sonny) Myers on this 26th day of April 2004.