

**Native Village of Tanana  
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Testimony for the Subcommittee on Indian, Insular and Alaska Native  
Affairs on H.R. 4289  
Longworth House Office Building, Room 1324  
Wednesday, May 18, 2016, 2:00 p.m.

*H.R. 4289 - To provide for the conveyance of certain property to the Tanana Tribal Council located in Tanana, Alaska, and to the Bristol Bay Area Health Corporation located in Dillingham, Alaska, and for other purposes.*

Good afternoon Chairman Young and members of the Committee. My name is Dorothy Jordan and I am a tribal member and the Secretary of the Tanana Tribal Council. I am pleased to testify before this Committee on behalf of our Tribe. We appreciate the opportunity to submit testimony that strongly supports passage of House Bill 4289, as introduced by the Honorable Congressman Young.

The Tanana Tribal Council is the governing body to 1,460 tribal members and the Village of Tanana is a predominantly Alaska Native rural community that is only accessible by snow-machine, plane, or boat. Hospital services are not readily available and we must travel many miles to access medical services. This land transfer will allow the Tribe to incorporate this parcel of land into our future community wellness and economic development plans. The land is located in the center of our community. House Bill 4289 would require the Secretary of Health and Human Services to transfer Indian Health Service (IHS) property to the Tribe via warranty deed. The land transfer is essential to facilitating the future construction of a new community wellness clinic.

Under the Self- Governance provisions of the Indian Self-Determination and Education Assistance Act (ISDEAA)<sup>1</sup>, the Tanana Tribal Council has successfully worked with Tanana Chiefs Conference in carrying out a broad range of health programs in Tanana, Alaska. The ISDEAA and the Tribe's agreements with the IHS give the Tribe the right to acquire fee

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<sup>1</sup> Indian Self-Determination and Education Assistance Act, Pub. L. 93- 638 (1975).

title to all federal property that the Tribe uses to provide health services to its tribal members. The IHS has been supportive and continues to work closely with the Tribe on the land transfer.

The parcel of land that the Tribe is requesting to have the IHS transfer is the site of a former IHS hospital that has since been removed. The original plot of land encompassed 20.56 acres. Under the Alaska Native Land Claims Settlement (ANCSA),<sup>2</sup> 9.31 acres was transferred to Tozitna, Tanana's ANCSA Village Corporation. The Tribe has requested transfer of the remaining 11.25 acres.

The IHS has begun work on transferring the parcel by quitclaim deed, however House Bill 4289 would expedite the transfer without the need for a quitclaim deed. While a quitclaim deed would transfer the grantor's interest in the property, it would not guarantee that the title is valid and would include prohibitive terms and conditions that would act as an obstacle to mortgaging, leasing, or otherwise transferring any interest in the property or making major changes or capital improvements to the property without first gaining permission from the IHS even when the Tribe uses its own funds for a project.

As such, the Tribe would not benefit from a quitclaim deed in the same way it would benefit from a warranty deed. In fact, the quitclaim deed would deprive the Tribe of unencumbered and autonomous land ownership rights because property transferred under quitclaim would be treated as if it continued to be federally owned, allowing the IHS to have control over the Tribe's use of its property. Further, any breach of the covenants running with the land would result in an immediate reversion of title back to the government agency. A warranty deed would instead provide the Tribe with greater security in title as well as flexibility in how the property is used to carry out health service programs for our tribal members and in our efforts to leverage funding.

House Bill 4289 requires the Secretary of Health and Human Services to transfer the parcel of land to the Tribe by warranty deed within 180 days of enactment. In addition, the conveyance of the property by warranty deed shall not: (1) require any consideration from the Tanana for the property; (2) impose any obligation, terms, or condition on Tanana; and (3) allow any reversionary interest of the United States in the property. The legislation also provides language to shield Tanana against any and all liability under Federal or State law for mitigation or other remedial action necessary by the presence of environmental contamination or hazards, including hazardous

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<sup>2</sup> Alaska Native Claims Act (ANCSA), 43 U.S.C. 1601 (1971)

petroleum-related substances. The Secretary will retain all liability for environmental contamination that existed on the property prior to transfer.

The bill also includes language that provides the Secretary an easement to access the property as reasonably necessary to satisfy any retained obligation or liability. The Secretary must comply with the notice of hazardous substance activity and warranty requirements of the Comprehensive Environmental Response, Compensation, and Liability Act.

We thank the Committee for holding a hearing on this important legislation to transfer via warranty deed 11.25 acres of land to the Native Village of Tanana. Consistent with federal policy and principles of self-governance, enactment of House Bill 4289 will enable the Native Village of Tanana to exercise full ownership rights in the transferred property.

We respectfully ask Congress to advance H.R. 4289 as soon as possible to account for a shorter session of Congress due to the election year.

Thank you.