

Native Village of Tanana
P.O. Box 130
Tanana, Alaska 99997

**Testimony of Second Chief Julie Roberts-Hyslop for the Committee on Natural Resources'
Subcommittee for Indigenous Peoples of the United States
Tuesday, October 5, 2021 at 12:00 p.m. EDT**

**H.R. 441, to provide for the conveyance of certain property to the Tanana Tribal Council
located in Tanana, Alaska, and for other purposes**

Chairwoman Leger Fernandez, Ranking Member Young and members of the subcommittee, thank you for the opportunity to testify on H.R. 441 which would convey property located in Tanana, Alaska to the Tanana Tribal Council (TTC). We especially thank Congressman Young for his continued leadership on this legislation and strongly support swift passage of H.R. 441. This non-controversial bill has already passed the U.S. Senate three times (most recently as S. 549) without any opposition and we call upon the House of Representatives to act quickly so that we may move forward with providing essential health services to our those in our very rural community.

The Tanana Tribal Council is a federally recognized tribal government and a governing body to 1,460 tribal members and the village of Tanana is a predominantly Alaska Native rural community that is only accessible by plane or boat. TTC operates the Tanana Tribal Health Center located 138 miles west of Fairbanks, Alaska. The Tanana Tribal Health Center provides mid-level outpatient services, 24-hour urgent care, outpatient alcohol counseling, and residential elder care. The facilities include the clinic building, housing units, and service buildings.

H.R. 441 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 construction of a new community wellness clinic. We are also considering expanding elder care and developing nursing care services on this land.

Under the Self- Governance provisions of the Indian Self-Determination and Education Assistance Act (ISDEAA),¹ 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 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 Tanana on the land transfer.

The parcel of land that the Tribe is requesting to have 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),² 9.31 acres was transferred to

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

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

Tozitna, Tanana's ANCSA Village Corporation. The Tribe has requested transfer of the remaining 11.25 acres.

IHS has begun work on transferring the parcel by quitclaim deed, however, H.R. 441 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.

H.R. 441 at Section 1(a)(1) 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 petroleum-related substances. The Secretary will retain any and all liability for environmental contamination in existence on the property prior to title transfer to Tanana. The bill 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 (CERCLA).

Again, 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 H.R. 441 will enable our Tribe to exercise full ownership rights in the transferred property. We respectfully ask the Committee and the full House of Representatives to advance this legislation as soon as possible. I am happy to answer any questions you may have. Thank you.