

Subcommittee on Indian, Insular and Alaska Native Affairs

Don Young, Chairman

Hearing Memorandum

May 16, 2016

To: All Subcommittee on Indian, Insular and Alaska Native Affairs Members

From: Majority Committee Staff, Subcommittee on Indian, Insular and Alaska Native Affairs (x6-9725)

Hearing: Legislative hearing on H.R. 4289 (Rep. Don Young), 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.
Wednesday, May 18, 2016, at 2:00 p.m. in 1324 Longworth HOB

Summary of the bill

H.R. 4289 was introduced by Rep. Don Young on December 22, 2015 and has been referred to the Subcommittee on Indian, Insular and Alaska Native Affairs. The bill would direct the Secretary of Health and Human Services to convey by warranty deed, within 180 days of enactment, property to the Tanana Tribal Council (“TTC”) and the Bristol Bay Area Health Corporation (“BBAHC”) for use in connection with health and social services related programs. The Tanana Tribal Council would receive 11.25 acres of Federal land and the BBAHC would receive approximately 1.474 acres of federal land.

Witnesses

Mr. Gary Hartz, Director
Office of Environmental Health and Engineering
Indian Health Service
U.S. Department of Health and Human Services
Washington, D.C.

Ms. Dorothy E. Jordan, Secretary
Tanana Tribal Council
Tanana, AK

Ms. Lecia Scotford M.D, M.H.A, Executive Vice President & COO
Bristol Bay Area Health Corporation
Dillingham, AK

Background

Tanana Tribal Council

The Native Village of Tanana is located in interior Alaska, two miles west of the junction of the Tanana and Yukon Rivers and 130 miles west of Fairbanks. Predominantly a rural community, the Village of 1,400 enrolled tribal members is governed by Tanana Tribal Council. The community is only accessible by small plane or boat and snow machine the winter. Residents often must travel to larger hub communities for medical services, such as Fairbanks or Anchorage, which can be costly and at times prohibitive for residents needing the medical care, especially when severe illness or injury requires a medivac.

The parcel of land that the Tribe is requesting the Indian Health Service (“IHS”) transfer encompasses a portion of a former IHS hospital site. The original plot of land encompassed 20.56 acres. Under the Alaska Native Land Claims Settlement Act¹ (“ANCSA”), 9.31 acres was transferred to Tozitna, Limited, Tanana’s Village Corporation. The Tribe has requested transfer of the remaining 11.25 acres by warranty deed.

Bristol Bay Area Health Corporation

The Bristol Bay Area Health Corporation, located in Dillingham, AK, was incorporated in 1973. In 1980, the BBAHC assumed the management and operation of the federally owned Kakanak Hospital and the Bristol Bay Service Unit for the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act (“ISDEAA”).² Through the ISDEAA and Alaska Tribal Health Compact Funding Agreements with the IHS, the tribe has carried out a comprehensive health care delivery program at the hospital. One health care service provided is dental care, which is in need of expansion.

In order to expand and update health care dental delivery system at the Kakanak Hospital, BBAHC requested on April 4, 2014 that the IHS transfer a 1.474 acre parcel of land within the hospital compound to the BBAHC in order to construct, using non-IHS funds, a new larger dental facility. While the IHS was supportive of the transfer, the IHS transferred the parcel via quitclaim deed on May 29, 2015, using the authority of the Federal Property and Administrative Services Act³ and GSA regulations.

The BBAHC accepted the IHS quitclaim deed in order to begin construction on the new facility due to the short construction season. According to BBAHC, the quitclaim includes extensive terms and conditions that give the IHS the right to approve major changes or capital improvements in the property.

BBAHC is seeking a warranty deed that would supersede any existing quitclaim deed, allowing BBAHC to have more appropriate control over the land and more opportunities for financing, and removing any revisionary interests of the IHS.

¹ 43 U.S.C. 1617 et seq.

² 25 U.S.C. 450 et seq.

³ 40 U.S.C § 101 et seq.

Section-by-Section Analysis of H.R. 4289

Section 1(a). Conveyance Of Property To The Tanana Tribal Council. Section 1 directs the Secretary of Health and Human Services no later than 180 days after the date of enactment of this Act, to convey by warranty deed certain property described in Section 2 for use in connection with health and social services related programs. The Conveyance of the property shall also be subject to four conditions which are:

- Conveyance must be made by warranty deed
- No consideration made by TTC for the property will be given
- No obligation, term, or conditions will imposed on TTC
- No allowance for any revisionary interest by the U.S. in the property

Subsection (b). Property Described. Subsection (b) describes the property and location which encompasses 11.25 acres located in the village of Tanana, AK.

Subsection (c). *Environment Liability.* Subsection (c) provides that notwithstanding any other provision of Federal law, as of the date of conveyance, TTC shall not be liable for any soil, surface water, groundwater, or other contamination resulting from the disposal, release or presence of any environmental contamination, including any oil or petroleum product, any hazardous waste pollutant, toxic substance, solid waste, or any other environmental contamination or hazard as defined in any Federal or State law, on the property described in subsection (b).

This section also grants the Secretary any reasonably necessary easement or access to the property to satisfy any retained obligation or liability of the United States. Finally, this section provides that the Secretary shall comply with Section 120(h)(3)(A) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

Section 2. Conveyance Of Property To The Bristol Bay Area Health Corporation. Subsection (a) of section 2 directs the Secretary of Health and Human Services no later than 180 days after the date of enactment of this Act, to convey by warranty deed certain property described in subsection (b) to BBAHC for use in connection with health and social services related programs. The Conveyance of the property shall also be subject to four conditions, which are:

- Conveyance must be made by warranty deed
- No consideration made by BBAHC for the property will be given
- No obligation, term, or conditions will imposed on BBAHC
- No allowance for any revisionary interest by the U.S. in the property

Subsection (b). Property Described. Subsection (b) describes the property and location which encompasses approximately 1.474 acres.

Subsection (c). Environmental Liability. Subsection (c) provides that notwithstanding any other provision of Federal law, as of the date of conveyance, BBAHC shall not be liable for any soil, surface water, groundwater, or other contamination resulting from the disposal, release or

presence of any environmental contamination, including any oil or petroleum product, any hazardous waste pollutant, toxic substance, solid waste, or any other environmental contamination or hazard as defined in any Federal or State law, on the property described in subsection (b).

This subsection also grants the Secretary any reasonably necessary easement or access to the property to satisfy any retained obligation or liability of the United States. Finally, this section provides that the Secretary shall comply with Section 120(h)(3)(A) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

Cost

Unknown at this time but the Committee anticipates that there should be no effect on the federal budget.

Administration Position

Unknown at this time however the Administration has not opposed similar federal land transfers in Alaska, both in the 113th and 114th Congresses which being used for health related purposes.