

**Maniilaq Association
P.O. Box 256
Kotzebue, Alaska 99752
(907) 442-3311**

Testimony Presented before the Senate Committee on Indian Affairs on S. 1898,
A Bill for the Conveyance of Certain Property from the United States to the Maniilaq Association

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Paul Hansen, Deputy Administrator

Maniilaq Health Center

My name is Paul Hansen and I am the Deputy Administrator for the Maniilaq Health Center and I am pleased to testify before this Committee on behalf of the Maniilaq Association. The Maniilaq Association is an Alaska Native regional non-profit organization representing twelve tribes in Northwest Alaska. We strongly support S. 1898, legislation that would convey certain property from the United States to the Maniilaq Association located in Kotzebue, Alaska. We thank the Alaska congressional delegation for introducing and moving this legislation.

The Maniilaq Association has for many years carried out a range of health and social services programs in the Northwest Arctic Borough on behalf of its member Alaska Native villages under the Self- Governance provisions of the Indian Self-Determination and Education Assistance Act (ISDEAA). Maniilaq Association carries out these programs in accordance with the Alaska Tribal Health Compact with the United States and Funding Agreements with the Indian Health Service.

As you know, the House has passed companion legislation to S.1898 (H. R. 443 introduced by Representative Don Young). While the bills have some minor drafting differences they are substantively the same and would accomplish the same things. ***In the interest of not having to have a conference on this legislation or the House being required to re-pass it, we recommend that the Senate approve the House-passed bill.*** We know there is little floor time left in this session, and are concerned that requiring the House to act again would endanger enactment of this legislation. The bills would require the Secretary of Health and Human Services to convey to the Maniilaq Association property located in Kotzebue, Alaska, for use in connection with these health and social service programs. The property to be conveyed consists of three parcels of land including buildings and appurtenances on the land.

The first parcel is an 8.10 acre tract on which the Maniilaq Health Center is located and on which the Maniilaq Association recently completed the construction of a long term care facility adjacent to the Health Center. Completion of this project has been a long term goal of Maniilaq Association and was the product of many years of work. In connection with this project Maniilaq Association unsuccessfully sought authorization from Indian Health

Service to build the long term care facility as an addition to the Health Center which was owned by the Indian Health Service. Finally, after several years of discussion, Maniilaq Association realized that to keep the project moving it had no option but to agree with the Indian Health Service's suggestion that it accept title to the property. The parcel was transferred by the Indian Health Service to the Maniilaq Association through a Quitclaim Deed issued by the Indian Health Service to the Maniilaq Association on March 31, 2009. Final construction of the 18 bed facility was completed last year. The facility was dedicated in October, 2011 and its first residents moved in that same month.

The second and third parcels described in S. 1898/H.R. 443 are land on which housing for employees of the Health Center and long term care facility is located. The Indian Health Service transferred these parcels to Maniilaq Association approximately six months after the first parcel was transferred.

The conveyance required by S. 1898/H. R. 443 will be through a warranty deed without consideration and without imposing any obligation, term, or condition on the Maniilaq Association, or reversionary interest in the United States, other than required by S. 1898/H. R. 443 itself or by section 51 2(c)(2)(B) of the ISDEAA. This makes the conveyance required by S. 1898/H. R. 443 consistent with the ISDEAA, which allows reversion of title back to the United States, at the option of the Secretary, only upon retrocession or withdrawal by the Maniilaq Association from the Alaska Tribal Health Compact or re-assumption of the compacted programs by the Indian Health Service.

The warranty deed required by S. 1898/H. R. 443 will supersede the Quitclaim Deed issued by the Secretary to the Maniilaq Association on March 31, 2009. The quitclaim deed includes provisions for Indian Health Service control of the Maniilaq Association's use of the property which are inconsistent with conveyance of title under the ISDEAA. For example, the quitclaim deed requires Indian Health Service approval for any mortgage or encumbrance of the property as security for construction or other loans for improvements on the property. Indian Health Service approval is also required for any contract which would impact the value of the property. This gives the Indian Health Service continuing control over the Maniilaq Association's use of the property. Breach of these requirements, which are made covenants running with the land, results in an immediate reversion of title back to the Indian Health Service. This goes far beyond the conditions for reversion of title back to the United States in section 51 2(c)(2)(B) of the ISDEAA.

While a quitclaim deed transfers the grantor's interest in the property, it does not warrant that the title is valid. Transfer by warranty deed, which requires special legislation, expressly guarantees the grantor's good and clear title and contains covenants concerning the quality of title, freedom from encumbrances, and defense of title against other claims. This gives the Maniilaq Association more security in its title and more flexibility in use of the property in carrying out health and social services programs for its member villages.

S. 1898/H. R. 443 exempts the Maniilaq Association from liability for environmental contamination or hazards, as defined in Federal law, present on the property as of the date of conveyance, notwithstanding any provision of Federal law. S. 1898/H. R. 443 does not pre-empt state environmental laws and the Secretary is granted any easement or access to the property which may be necessary for the Secretary to satisfy any retained environmental obligations and liability prior to conveyance. The Secretary must also comply with the notice and warranty provisions of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) applicable to transfer of property owned by the United States on which any hazardous substance was stored for one year or more, known to be released, or disposed of on the property.

Enactment of S. 1898/H. R. 443 will enable the Maniilaq Association to exercise its rights of ownership in the transferred property consistent with the ISDEAA and the principles of self-governance.

On behalf of the Maniilaq Association, including our twelve constituent villages and their members, we thank the Committee for holding this hearing on S. 1898.