

**Testimony of Robert Keith, Chairman of the Board of Kawerak Inc. before the
Committee on Natural Resources, Office of Indian Affairs
on H.R. 4347, “Department of the Interior Tribal Self-Governance Act of 2009,”
Wednesday, June 9, 2010, 10 am**

Thank you for the opportunity to testify today on HR 4347—*Department of Interior Tribal Self-Governance Act of 2009*, which aims to address some issues of deep and continuing concern to Alaska Natives.

My name is Robert Keith. I am here as the Chair of the Board of Directors of Kawerak, Inc.—a regional tribal consortium serving twenty tribes from the Bering Straits region of Northwest Alaska. I am also President of the Native Village of Elim, serve on the Board of the Norton Sound Health Corporation and on the National Tribal Self-Governance Advisory Group.

Kawerak, Inc., is headquartered in Nome, Alaska which is the largest community in the Bering Straits Region and serves as the principle transportation and service hub. Kawerak currently contracts to provide a wide range of federal and state services, including almost all services previously provided by the Bureau of Indian Affairs. The Kawerak Board consists of the Tribal President or a Tribal Council designee from each of the 20 federally recognized Tribes in the region.

Our service area includes the Seward Peninsula, Norton Sound, St. Lawrence Island, and Little Diomed Island. This region extends 230 miles from north to south, covers 570 miles of

coastline, and includes an area of more than 26,000 square miles—equivalent in size to the State of West Virginia. The region hosts 9,300 people of which 7,000 are Alaska Native Inupiaq, Siberian Yupik, and Central Yupik. In the villages outside of the main hub of Nome, Alaska Natives comprise 90% of the population. Our villages are some of the remotest communities in the United States, with all being closer to Russia than Anchorage.

We have an extremely high unemployment rate. Less than 40% of the population (mostly in Nome) is even considered part of the labor force. In the villages, as many as 70% of adults are currently unemployed—not because they choose to be, but because there are no jobs available. Our people are highly skilled subsistence hunters and fishers. We remain heavily dependent on the natural animal and plant resources for our everyday sustenance. Alaska Natives are one of the largest landowners in the State of Alaska, owning over 12% of the state (44 million acres). The 221 million acres of land owned by the federal government in Alaska are not parks and refuges to us—they are our backyards. For millennia our people have hunted, fished, and lived on lands that are now federally owned. Our stewardship of these very same lands speaks for itself; if we had not taken pristine care of the land, it would not have been worth putting into parks and refuges. Our innate understanding of the land around us makes us the perfect candidates for its future management.

When Title IV of the Indian Self-Determination Act, PL 93-638, was passed in 1994, we thought it would open the door to broader Native involvement in the parks and refuges of Alaska. Title IV authorized non-BIA Interior Department agencies to compact with Tribes, when the particular program or federal activity had a close geographical or cultural nexus to the Tribe. Kawerak immediately applied to compact functions of the Bering Land Bridge National

Preserve and also part of the National Park Service Beringia program. Beringia supports cultural, biological, and other research/projects related to the Bering Land Bridge, which has a close geographical, historical and cultural nexus to Alaska Natives, particularly those living in the Bering Strait Region.

To illustrate the difficulties that arise when the agencies within the Department of the Interior are not mandatorily obligated to negotiate self-governance agreements with Tribes or tribal organizations, I have attached a copy of a letter that we sent to Ms. Glenn Key, then Counselor to the Secretary, in which we summarized the problems we encountered.

Kawerak's attempt to compact with NPS was plagued with difficulties every step of the way—from their unwillingness to provide necessary information to their unwritten policies and unclear negotiating hierarchy. Kawerak was eventually able to negotiate a self-governance agreement with NPS resulting in \$180,000 of Beringia funds being reallocated to Kawerak. This funding agreement went into effect in 1996, and was the first NPS Tribal Self-governance agreement in the United States. To my knowledge, this is one of only two Title IV non-BIA agreements in Alaska, despite tribal and regional organizations' attempts to negotiate agreements with NPS, USF&WS and other federal agencies over the last 15 years. The Kawerak NPS agreement is far from a success story. Three years after it went into effect, it was discontinued by NPS, not because of non-performance, non-reporting, or other issues; rather, NPS, unfortunately, treated it as a competitive grant and not a self-governance agreement. Kawerak viewed the Beringia agreement as establishing a permanent relationship, and as a compromise settlement of a much broader Title IV application.

For the reasons listed above, and many more, we would like to make some recommendations for amendment to HR 4347. Prior to this new draft, the bill allowed for the expansion of mandatory compacting of programs to the Department of the Interior beyond the Office of the Special Trustee, and the Bureau of Indian Affairs. If enacted, the prior draft of 4347 would have allowed tribes and tribal organizations to negotiate contracts for the administration of non-BIA agencies, such as the National Park Services (NPS), United States Fish and Wildlife Service (USFWS), or other agencies within the Department of the Interior (DOI). With the new draft excluding the expansion of mandatory compacting to the DOI, we believe that the DOI will construe Title IV so narrowly that it will be of limited application outside of the BIA.

Many of the agencies within the Department of the Interior foster the idea that they do not have any Native programs and therefore, are not obligated to enter into self-governance agreements. In their adamancy, the DOI has not even acknowledged that the ANILCA subsistence program is Native in nature. The DOI's continued reluctance to entering into non-BIA DOI self-governance agreements significantly limits our ability to be fully engaged in helping manage and protect the resources upon which we have depended for thousands of years. For example, Kawerak has a cooperative agreement with the USFWS to fund activities associated with the co-management of Pacific Walrus. Under the Marine Mammal Protection Act, Alaska Natives are the only people authorized to hunt marine mammals. Several years ago, Kawerak's funding level for the Eskimo Walrus Commission was \$360,000 a year. Our funding was subsequently cut to \$80,000 and we have been placed in the position of seeking to restore full funding ever since. When we explored why our co-management funding had been reduced, we discovered that USFWS redirected the dollars to fund their fixed cost increases within the

department. If these funds had been in a compact/annual funding agreement, I believe they would have been protected, since agreements historically have not allowed for unilateral reduction of funding by agencies except for congressional approved increases or decreases. Congress needs to mandate the Department of Interior to partake in negotiation processes, in good faith, with Tribes for non-BIA DOI program service functions/activities. We request that section 405(b)(1) be amended to provide for the expansion of compacting beyond OST and BIA to the DOI.

Kawerak, in partnership with the Bering Straits Native Corporation, the regional Alaska Native Claims Regional Profit Corporation, will be initiating another attempt to compact for functions associated with the Bering Land Bridge and the National Park Service Beringia program. If Congress does not make the DOI mandatorily obligated to negotiate in good faith, we will most likely face the same issues we did in the mid-1990's. In reviewing the Treasured Tribal Landscapes Initiative, it appears that the administration is more supportive of Native Americans having a role in the management of the lands in which they have a geographical, historical, or cultural nexus. By amending this bill to expand mandatory compacting to include the Department of Interior agencies, other than just the Bureau of Indian Affairs and the Office of the Special Trustee, this bill would further the administration's goal of engaging Native Americans as stewards, protectors, and conservators of those lands upon which we depend.

In the past year, Maniilaq, our sister consortium in the Kotzebue region, has indicated to NPS their interest in compacting for functions associated with four parks in Northwest Alaska. In their attempt, Maniilaq has faced many of the same problems Kawerak did in the mid-1990's, such as incomplete information. Most recently, they received a draft an annual funding

agreement (that was created for discussion only) for the possible assumption of the janitorial, custodial, and maintenance functions associated with the four parks. This after Maniilaq had clearly expressed their interest in managing the visitor center in Kotzebue and the transporter permitting processes. NPS continues to claim that functions are “inherently federal” as a means to avoid compacting with Tribes and Tribal Consortiums. The management of a park visitor center is not an inherently federal function. In fact, this is the type of activity that ANILCA, sections 1306-1308 supports Alaska Native entities contracting to provide. Maniilaq is a tribal consortium that compacts with Indian Health Services (IHS) to provide health services in the Kotzebue region, operates the local hospital, and contracts with both the State and Federal governments for a broad range of other services. Maniilaq has BIA and IHS self-governance compacts which have been in effect since for years. They manage millions of dollars in federal and state contracts and have demonstrated that they are fully capable of negotiating and managing NPS functions in the four parks requested. The redraft of HR 4347, to compel the DOI to be mandatorily obligated to negotiate in good faith, will provide Maniilaq with the opportunity to manage the land that our people have been stewarding for millennia; to hire staff who are local and have actual knowledge of the natural and cultural resources; and to have a say in the research and projects that take place in the area.

In our view, the enhancement of the funding and contractual mechanisms recommended here will allow for more flexibility and involve less bureaucratic red tape than typical grants and contract. Because self-governance agreements are negotiated on a government-to-government basis, they carry a sense of equality and respect that other federal funding mechanisms do not. They bring the parties together on an annual basis. They ensure cooperation and acknowledgement.

For many years Native organizations in Alaska have sought a closer relationship to the federal agencies that manage the lands in our areas. Our people are directly impacted by the activities of these agencies. And it only makes sense that we should have a meaningful role in the operation of the land units. HR 4347 must expand mandatory compacting of programs in the DOI agencies in order to take the large and necessary step in the right direction.

Thank you very much for the opportunity to testify here today.